

In the matter of Section 86 The Medical Profession Act 1981

Application By

Dr. Petrus Bierman

To

The Council of Physicians and Surgeons of Saskatchewan

Reasons for Decision

On the 15 day of November 2012 Council ordered the restoration of Dr. Bierman's license to practice medicine. The following represents the reasons for Council's decision.

In November of 2011 Council, after a hearing struck the name of Dr. Bierman from the Register of the College of Physicians and Surgeons after he had pleaded guilty to committing an act of sexual impropriety with a patient. Council at that time ruled that eligibility for any application for restoration would require meeting two conditions: a) that nine months shall have passed from the effective date of registration b) that Council be satisfied by a report from a professional person or organization that Dr. Bierman will have undertaken counselling and that the Counsellors are satisfied that he has gained insight into the matter and has achieved a measure of rehabilitation which protects the public from risk of future harm by him. Council named professionals whose opinion would be accepted by it to provide such a report.

Section 86 of The Medical profession Act provides that "The Council may restore the license or permit as the case may be where it considers that the interest of the public has been adequately protected..." Upon hearing from the applicant and his counsel and upon the applicant and his counsel and upon questioning of Dr. Bierman the Council is satisfied that the requirements of the Act and of its Decision of November 2011 have been fully met and is satisfied that the requirement of Section 69.1 that "the protection of the public and safe and proper practice of medicine" have taken priority in reaching its decision. In reaching its decision for restoration Council was guided by its previous decision in another matter that accepted guidelines set out in an Ontario Task Force on Sexual Abuse in 1991. These guidelines are similar to guidelines set in the legal context by the Law Society of Upper Canada in the matter of Clark v. Law Society of Upper Canada 2010 ONLSHP 0011 which pointed out that an application for readmission may be considered regardless of how egregious the conduct that warranted suspension was if sufficiently compelling evidence of rehabilitation is presented. The conclusion to restore while requiring a burden of proof which falls just short of that in criminal matters of beyond a reasonable doubt is based on a precept that people can be rehabilitated. To quote the Clark case "Time and experience may mend the flaws of character

which allow the immature man to err. The chastening effect of severe sanction such as disbarment may redirect the energies and reform the values of even the mature miscreant. There is always the possibility of reform, and fundamental fairness demands that the disbarred attorney have an opportunity to induce Proof”.

What evidence compels Council to grant this application, and consider that the public is protected? Council has previously stated in this matter that it felt that restoration would be sufficient if a period of at nine months passed before application. In this case a year has transpired. The second condition was a satisfactory report from a named professional or organization that the applicant has undertaken counselling and that the counsellors are satisfied that a sufficient rehabilitation has been achieved to protect the public from the risk of future harm.

The Council considered the report of a psychiatrist recommended by Council who among his academic and medical positions is the Forensic Psychiatrist with the Criminal Behavior and Analysis unit of the Ontario Provincial Police. He considered his own assessment as well as the report of the applicant’s treating psychologist and he concluded that in his professional opinion he is a low risk for a repeat offence. He recommended continuing treatment by his psychologist until his psychologist decided it was not necessary. The Registrar’s office reported that this report meets the attestation of a professional required by the previous Council decision.

Secondly, the psychologist stated in his report that “in his professional opinion the applicant has been ready to return to work for some time. He poses no risk to his patients or the community. I have been very impressed with his dedication to recovery and ensuring that he can perform professionally and for the benefit of his patients”.

Thirdly, the applicant recently attended the University of Western Ontario’s Schulich School of Medicine and Dentistry Course “Understanding Boundaries in Managing the Risks Inherent in the Doctor-Patient Relationship”. The “learning objectives” of this course seem ideally suited in its 11.75 hour workshop to show the willingness of the applicant to work on and improve his capability to practice medicine.

Finally, the applicant has given his undertaking to the College of Physicians and Surgeons, not to engage in solo practice until such condition is rescinded by Council and will therefore have ready access to advice of other professionals.

The Council is satisfied from its questions to the applicant and the content and demeanor of his replies that the applicant has met all reasonable safeguards to ensure that his restoration to a license satisfies Council’s obligation to make such a decision in the public interest.