

IN THE MATTER OF: *THE MEDICAL ACT*, CCSM c.M90, Part X

AND IN THE MATTER OF: Dr. EJAZ AHMAD, a member of the College of Physicians and Surgeons of Manitoba

AND IN THE MATTER OF: a Notice of Inquiry dated JUNE 6, 2018

INTRODUCTION

On October 15, 2018, a hearing was convened before an Inquiry Panel (the “Panel”) of the College of Physicians and Surgeons of Manitoba (the “College”) for the purpose of conducting an inquiry pursuant to Part X of *The Medical Act* CCSM c.M90 (the “Act”) into charges against Dr. Ejaz Ahmad (“Dr. Ahmad”), a member of the College, as set forth in an Amended Notice of Inquiry dated June 6, 2018.

The Amended Notice of Inquiry charged Dr. Ahmad with professional misconduct, with contravening By-Law 1 and By-Law 11 of the College and with displaying a lack of knowledge, skill and judgment in the practice of medicine.

Among other things, the Amended Notice of Inquiry alleged that:

1. Between in or about June 2016 and July 2017, Dr. Ahmad performed circumcisions on one or more of eighteen pediatric patients in inappropriate circumstances and in an inappropriate manner, in contravention of one or more of Articles 2, 6, 27, 28 and 44 of By-Law 11 and Articles 1, 14 and 23 of Schedule G (the Code of Ethics) of By-Law 1, and thereby committed acts of professional misconduct and displayed a lack of skill and judgment in the practice of medicine.
2. On or about July 21, 2017, Dr. Ahmad behaved in an unprofessional and unethical manner with a patient’s parents and with healthcare professionals when Dr. Ahmad accompanied that patient and his parents to the emergency department of a hospital for treatment of the surgical complication he had caused when performing the circumcision on that patient. Specifically, Dr. Ahmad requested that the patient’s parents not disclose that he had performed the circumcision and Dr. Ahmad advised the

nursing staff and a physician at the emergency department that a “traditional man” had performed the circumcision. By doing so Dr. Ahmad contravened Articles 1 and 5 of Schedule G (the Code of Ethics) of By-Law 1 and committed acts of professional misconduct.

3. On or about July 1, 2017, Dr. Ahmad behaved in an unprofessional and unethical manner with another patient’s parents while accompanying that patient and those parents to the emergency department of a hospital for treatment of the surgical complications he had caused when performing the circumcision. Specifically, Dr. Ahmad requested that patient’s family not to disclose to other healthcare providers that he had performed the circumcision, thereby contravening Articles 1 and 5 of Schedule G (the Code of Ethics) of By-Law 1 and committed acts of professional misconduct.
4. Dr. Ahmad provided misleading information to the College as to the nature, extent and circumstances surrounding the creation of medical records which Dr. Ahmad was required to produce to the College. Specifically, Dr. Ahmad failed to acknowledge that he had not created an adequate or any record for the circumcisions which he had performed on one or more of the eighteen patients, thereby committing acts of professional misconduct.

The Amended Notice of Inquiry also contained factual particulars with respect to allegations 1, 2 and 4 outlined above.

The hearing proceeded before the Panel on October 15, 2018, in the presence of Dr. Ahmad and his counsel, and in the presence of counsel for the Investigation Committee of the College (the “Investigation Committee”). Dr. Ahmad, through his counsel, admitted his membership in the College, and confirmed that the Panel had jurisdiction over the matters at issue. Dr. Ahmad, through his counsel, also acknowledged service upon him of the Notice of Inquiry and consented to a motion by the Investigation Committee to amend the Notice of Inquiry.

At the commencement of the hearing, counsel for the Investigation Committee made a motion pursuant to sub-section 56(3) of the *Act*, for an order protecting the identity of all patients, and any third parties who may be referred to in the proceedings, or in any of the exhibits filed in the proceedings. The motion also sought an order preventing the disclosure, publication or transmission of various photographs to be referred to in the proceedings, due to the personal and private nature of the photographs. Dr. Ahmad, through his counsel, consented to such an order.

The Panel, being satisfied that the desirability of avoiding public disclosure of the identities of patients and other third parties and of the photographs, outweighed the desirability of the identities of the patients, other third parties and the photographs being made public, granted an order. The order specified that there shall be no disclosure of the names or any identifying information of any patients, or other third parties who may be referred to in the proceedings, or in any of the exhibits in the proceedings, and that there shall be no disclosure, publication, or transmission of any photographs referred to in the proceedings.

Dr. Ahmad waived the reading of the Amended Notice of Inquiry and entered a plea of guilty to each of the four charges outlined therein. By doing so, he admitted the truth of all of the allegations and of the factual particulars in support of the allegations in the Amended Notice of Inquiry and also admitted that the facts and matters outlined therein constituted professional misconduct and a breach of By-Law 1 and By-Law 11 of the College and a breach of the specific Articles in the Code of Ethics of the College, as more particularly referred to in the Amended Notice of Inquiry.

The Panel reviewed and considered the following documents, all of which were filed as exhibits in the proceedings by consent:

1. The Notice of Inquiry dated June 6, 2018 (Exhibit 1);
2. An Amended Notice of Inquiry (Exhibit 2);
3. A detailed seventeen page, thirty nine paragraph Statement of Agreed Facts (Exhibit 3);

4. A Joint Recommendation as to Disposition (Exhibit 4); and
5. A Certificate with respect to a medical record keeping course attended by Dr. Ahmad on June 10, 2013 (Exhibit 5).

The Panel has considered the guilty plea of Dr. Ahmad in the context of the above noted exhibits and the submissions of counsel for the Investigation Committee and the submissions of counsel for Dr. Ahmad.

On the basis of their review of the Statement of Agreed Facts and the guilty plea of Dr. Ahmad, the Panel is satisfied that all of the charges set forth in the Amended Notice of Inquiry and the particulars contained therein have been proven.

The Panel is also satisfied that the Joint Recommendation as to Disposition is sound and appropriate and ought to be accepted by the Panel. The Panel's specific reasons for its decision are outlined below.

BACKGROUND

1. Dr. Ahmad completed medical school at Punjab Medical College, University of The Punjab, Pakistan in 1985. After he completed his post-graduate training, Dr. Ahmad practiced medicine in Pakistan until 1997. In 2003, Dr. Ahmad undertook training in family medicine in Canada. He was registered in the Manitoba Medical Registry and licensed to practice family medicine in January of 2004. His license and registration were current at all times pertinent to this matter.
2. In July 2017, the College commenced an investigation based on information provided by a physician working in the Children's Hospital Emergency Department ("Children's ED") arising from concerns expressed by several other physicians involved in the care of six boys (Patients 1-6) who presented to the Children's ED in the previous 30-day period with complications of circumcision which had been performed by Dr. Ahmad.

Dr. Ahmad immediately undertook to cease performing the procedures pending the outcome of the investigation.

3. At two stages in the investigation, Dr. Ahmad was required to provide the College with relevant medical records for certain patients whose care was being reviewed as part of the investigation. When Dr. Ahmad responded to the request he:
 - (a) Provided chart entries which were not in existence at the time the request was made and were created in response to the request; and
 - (b) Failed to advise the College that no records existed until after the request.

Facts Relevant to all 18 circumcisions

4. During the course of the investigation, Dr. Ahmad acknowledged the following in respect to his training, qualifications and experience prior to performing circumcisions commencing in 2016:
 - (a) He had completed a six-month surgical rotation during post-graduate training and performed circumcisions on neonates and infants during his training and while practicing in Pakistan between 1986 and 1997;
 - (b) He did not perform the procedure for a 19 year period between 1997 and 2016; and
 - (c) He resumed performing circumcisions in 2016, despite hesitancy arising from a lack of confidence in his own abilities, without undertaking any measures to update his knowledge and skills.
5. Dr. Ahmad has described the circumstances leading to him resuming performing circumcisions as follows:

- (a) He commenced performing circumcisions in 2016 when he was approached by parents who wanted the procedure done for their young children; and
 - (b) The patient population was primarily recent immigrants to Canada who had been referred to Dr. Ahmad by members of their community.
6. Regarding the issue of informed consent, Dr. Ahmad stated that he:
- (a) Had no discussions with the people requesting his services regarding any medical indications of the procedure;
 - (b) Did not obtain written consent to the procedure being performed; and
 - (c) Advised that his routine was to discuss with the parents, the risks and complications, but he made no note of the specific risks and complications he discussed, in his medical records.
7. Dr. Ahmad has acknowledged that the surgical technique he utilized did not meet the current standard of care in that it was inappropriate and associated with greater risk of complication. Specifically, Dr. Ahmad has acknowledged that the deficiencies included that he:
- (a) Did not create a contemporaneous record of the care provided;
 - (b) Performed circumcisions at his private family medicine clinic instead of an institutional setting with resources available to provide appropriate anaesthesia and to deal with possible complications;
 - (c) Administered Xylocaine (lidocaine), a local anesthetic agent, at a non-specific dose and without documenting the weight of patients;
 - (d) Failed to provide appropriate anaesthetic;
 - (e) Used insufficient antiseptic technique to cleanse the surgical site by the sole use of alcohol swabs;

- (f) Used a clamp and scalpel to perform the procedure without the use of any device to guide the incision or protect the glans, such as a Plastibell;
 - (g) Did not suture the wound after the circumcision but instead used silver nitrate sticks to address bleeding; and
 - (h) Applied only gauze to the surgical site, wrapped circumferentially around the shaft of the penis, to close the wound, which was to be left in place for ten (10) days.
8. With respect to the payment arrangements for the circumcisions performed by Dr. Ahmad between June 2016 and July 2017:
- (a) Each of the circumcisions was performed as a consequence of the religious beliefs or the cultural practices of the patients' families and none of the circumcisions were medically required;
 - (b) A circumcision which is not medically required is an uninsured service;
 - (c) Dr. Ahmad has given information about a range of fees which he had charged for circumcisions. Dr. Ahmad has also advised the College that he refunded the amounts paid for circumcisions to approximately three patients or their families. He subsequently gave different information to the College about the refunds or payments he made to patients or their families and the reasons for the refunds or payments; and
 - (d) Dr. Ahmad did not create a record for any of the fees paid to him for the circumcisions.
9. Since the events referred to in the Amended Notice of Inquiry have occurred, Dr. Ahmad has taken additional training through observing and discussing the performance of circumcisions by a specialist at Humber

River Hospital in Toronto. After attending that training, Dr. Ahmad understands that he was using an inappropriate technique and has developed insight into the deficiencies with his previous technique.

Patients 1, 3 and 4

10. Dr. Ahmad performed circumcisions on patients 1, 3 and 4 on July 15, 2017. Patients 1, 3 and 4 were brothers.
11. The patients' mother took the boys to the Children's ED on July 18, 2017 because of her concerns relating to complications arising from the circumcisions. The attending physicians recorded concerns about swelling and possible infection relating to patient 1. Patients 3 and 4 were assessed for possible infection and noted to be on antibiotics. The attending physician telephoned Dr. Ahmad and expressed concerns about the circumcisions and about the procedures being performed outside of a hospital. He received assurances from Dr. Ahmad that Dr. Ahmad would assess the children the following day.
12. Patients 3 and 4 attended again at the Children's ED on July 22 and 24, 2017 without having been assessed by Dr. Ahmad in the interim. Information from the hospital medical record confirmed that:
 - (a) The boys were noted to have been on antibiotics since the time of their circumcisions;
 - (b) Both were seen by pediatric urology and required fentanyl to remove embedded gauze;
 - (c) In the case of each of the two boys, skin had separated approximately one centimeter at the surgical site. The surgical site was redressed; and

- (d) On July 24, 2017 the gauze and non-adhesive dressing was removed and the family was instructed to apply Polysporin daily until the boys were reassessed on July 27, 2017.
13. Patients 1, 3 and 4 all attended at Dr. Ahmad's clinic on July 25, 2017.
14. Patients 3 and 4 were reassessed by other doctors at the hospital on July 27, 2017 relating to ongoing concerns about the circumcisions performed by Dr. Ahmad. Information from the medical records from the July 27, 2017 attendance confirmed that:
- (a) The surgical site for each boy was noted to be granulating;
 - (b) The distal shaft skin on both patients was flipped over the corona;
 - (c) The proximal shaft skin had retraced toward the base of the penis; and
 - (d) The family was instructed to stop applying the hydrocortisone and to use Polysporin.
15. In Dr. Ahmad's letter to the College dated September 22, 2017, Dr. Ahmad described his peri-operative care of patients 1, 3 and 4 indicating that the three circumcisions "went fine" but referred to the mother of the boys calling him later expressing concerns about swelling and redness. Dr. Ahmad indicated in his letter to the College that he visited the boys at their home and that they took antibiotics for control of infection and did well eventually. He also noted that patient 3 had a little more difficulty stating that "...it was because of their mom's anxiety that these boys had visits to emergency department, ...".

Patient 2

16. Dr. Ahmad performed a circumcision on patient 2 on July 21, 2017. Dr. Ahmad documented a significant complication being "excessive bleeding

and tip of glans resected with foreskin...” and noted that the surgical area was packed to stop the bleeding and “patient to be taken to emergency for specialist opinion”.

17. Immediately following the circumcision procedure, Dr. Ahmad accompanied patient 2 to the Children’s ED. On the way he asked patient 2’s parents not to disclose to other healthcare providers that he had performed the circumcision.
18. The Children’s ED record from July 21, 2017 notes:
 - (a) A history of “bleeding from a circumcision performed this a.m. by a non-physician community practitioner”;
 - (b) A significant arterial bleeding that had to be controlled with pressure;
 - (c) Epinephrine-soaked gauze was applied; and
 - (d) Patient 2 was taken to the operating room as an E1 status (life-threatening) for revision and bleeding control. Patient 2 had a distal portion of the glans of his penis amputated by Dr. Ahmad during the circumcision procedure.
19. At the Children’s ED, Dr. Ahmad denied performing the circumcision when asked about his involvement and, concurrently, failed to assist by providing pertinent information. Dr. Ahmad advised nursing staff and a physician at the Children’s ED that a “traditional man” had performed the circumcision and that he was approached by the family to assist after the complication arose.
20. Patient 2 was reassessed by another doctor on July 25, 2017 and his post-operative healing was progressing normally. The plan was to reassess the patient in the fall to determine if there was any urethral stenosis present and whether cosmetic surgery would be appropriate.

21. Dr. Ahmad paid patient 2's parents \$2,000 after the complication occurred. He explained that the payment was to cover expenses related to the complication, including revision procedures.

Patient 5

22. Dr. Ahmad performed a circumcision on patient 5 on July 1, 2017. In the medical records provided by Dr. Ahmad to the College, Dr. Ahmad documented a home visit shortly after the procedure as bleeding had restarted. On that assessment, Dr. Ahmad noted that the dressing was firmly adhered to the penis and patient 5 was resisting removal. Dr. Ahmad had initially planned to go back to his clinic to address the bleeding, but a decision was made while on route to the clinic to go to the Children's ED instead.
23. Dr. Ahmad gave patient 5 and his father a ride to the Children's ED. During the journey, Dr. Ahmad requested that patient 5's family not disclose to other healthcare providers that Dr. Ahmad had performed the circumcision.
24. Information obtained from the medical record relating to the patient 5's attendance at the Children's ED on July 5, 2017 confirmed that:
 - (a) An arterial bleed had caused significant blood loss and epinephrine-soaked gauze was applied;
 - (b) Patient 5 was in significant pain and fentanyl was provided;
 - (c) Urology was consulted and patient 5 was taken to the operating room as an E1 status (life-threatening) where control of bleeding and revision of the circumcision was accomplished;
 - (d) It was noted that there was "very little skin to work with" and no sutures had been used in the circumcision procedure; and
 - (e) The family advised that Dr. Ahmad had performed the circumcision.

25. During the College's investigation, and continuing up to early October 2018, Dr. Ahmad gave contradictory information to the College as to whether he had paid any money to patient 5's family, and if so, what such a payment would have represented (i.e. a refund of the money that they had paid to Dr. Ahmad, or an additional payment due to the complications which had arisen).

Patient 6

26. Dr. Ahmad performed a circumcision on patient 6 on May 14, 2017.
27. After the procedure, patient 6's father was concerned about the care provided and patient 6's recovery. The father returned to Dr. Ahmad's clinic on May 22, 2017 with patient 6 for follow up and was present for Dr. Ahmad's examination. He felt that Dr. Ahmad was hurting patient 6 and that something was seriously wrong. The father asked Dr. Ahmad to stop and left the clinic with his son.
28. On May 31, 2017, patient 6 attended at a different surgical clinic for a consultation regarding the abnormal appearance of the penis. On assessment, the attending physician noted complete separation of the mucosal and dermal layers. The attending physician observed the technique that had been used by Dr. Ahmad did not result in what could be considered an appropriate circumcision and in fact left patient 6 with what would lead to a very abnormal appearance and likely the development of a severe stricture. A revision was performed which resulted in a more normal appearance.
29. Patient 6's father confronted Dr. Ahmad after the revision procedure. During this encounter, the father requested a refund of the fee he had paid for the circumcision and Dr. Ahmad refunded the money. The father also advised Dr. Ahmad to stop performing circumcisions.

Patients 7 – 18

30. Dr. Ahmad provided the names and applicable medical records for an additional twelve (12) patients. The outcome and rate of complications for the additional twelve (12) patients is unknown.

Medical Records

31. The following timeline is relevant to Dr. Ahmad providing information to the College which was misleading as to the nature, extent and circumstances surrounding the creation of the medical records:
 - (a) On August 23, 2017, the College requested medical records for patients 1-6, all of whose circumcisions were performed by Dr. Ahmad between early May and mid-July 2017;
 - (b) Based on what Dr. Ahmad has identified as the audit trail for those entries provided by his Electronic Medical Record (“EMR”), the notations in the EMR were made by Dr. Ahmad on September 17, 2017, except for patient 2, in respect of whom Dr. Ahmad has not provided the audit trail information which would confirm the date on which the record was created;
 - (c) Dr. Ahmad produced the records to the College under cover of a letter dated September 22, 2017;
 - (d) The documentation provided for patient 6 was a paper chart, reportedly as patient 6 did not have a Personal Health Identification Number (“PHIN”) when care was provided. This record was also produced on September 22, 2017;
 - (e) On December 5, 2017, the College requested the names and medical records of all other boys on whom Dr. Ahmad had performed

circumcisions. Those circumcisions were performed by Dr. Ahmad between mid-June 2016 and mid-June 2017;

- (f) Based on what Dr. Ahmad has identified as the audit trail for these entries, the EMRs for patients 10-18 inclusive were created by Dr. Ahmad on January 14, 2018, with the exception that patient 13's record was created on January 18, 2018. Dr. Ahmad has not provided the audit trail information with respect to patients 11 and 14 which would confirm the date on which the records were created;
- (g) Dr. Ahmad provided the names of patients 7-18 along with their medical records under cover of a letter dated January 19, 2018.

32. The content of various entries in the EMRs produced as part of the audit trail request on February 20, 2018 differed significantly, without explanation, from corresponding entries in the EMRs previously provided by Dr. Ahmad. Dr. Ahmad has acknowledged that he continued to alter the medical records which were subject to the College's investigation during the course of the investigation. When asked to provide additional information surrounding the circumstances relating to the creation of the EMRs, Dr. Ahmad stated:

"I admit that some of the records of circumcisions were not created at the time of procedure. Some of the other records were incomplete and were edited at later date. This was done during the process of investigation. When the investigation began I naturally had my concerns towards those records. After I was required to submit records it was a choice between not creating records or having record entered at a later date, a choice between two evils, 'one past, one present'."

THE JOINT RECOMMENDATION

Within the above-noted factual context and Dr. Ahmad's acknowledgements that he has committed acts of professional misconduct, has displayed a lack of knowledge, skill and judgment in the practice of medicine, and has contravened

By-Laws 1 and 11 of the College, it is the Panel's responsibility to determine the appropriate disposition of the charges outlined in the Amended Notice of Inquiry.

The Panel has had the benefit of a Joint Recommendation as to Disposition made by counsel for the Investigation Committee and counsel for Dr. Ahmad. The Joint Recommendation is outlined below.

“1. Pursuant to subsection 59.6(1)(a) of *The Medical Act*, Dr. Ahmad will appear before the Panel to be reprimanded.

2. Pursuant to subsection 59.6(1)(b) of *The Medical Act*, Dr. Ahmad will be suspended from the practice of medicine for a fixed period of five (5) months effective October 15, 2018.

3. Pursuant to subsection 59.6(1)(c) of *The Medical Act*, Dr. Ahmad shall be indefinitely suspended from the practice of medicine until he completes, at his own expense and to the satisfaction of the Chair of the Investigation Committee (“Chair”), a course in medical professionalism and ethics.

4. Pursuant to subsection 59.6(1)(e) of *The Medical Act*, Dr. Ahmad's entitlement to practice medicine will be limited as follows:

a. Dr. Ahmad will be prohibited from performing circumcisions.

b. The prohibition in subparagraph 4(a) may be varied or deleted by the Chair where he or she is satisfied that Dr. Ahmad is able to safely and competently perform circumcisions and only after Dr. Ahmad:

i. undergoes formal training and education, at his own expense, satisfactory to the Chair; and

ii. provides a report satisfactory to the Chair from a pediatric urologist registered in Manitoba, who has personally assessed Dr. Ahmad's ability to perform circumcisions, opining that Dr. Ahmad is able to safely and competently perform the procedure.

c. Notwithstanding subparagraphs 4(a) and 4(b), the Chair may, upon receiving a description of the assessment process referred to in subparagraph

4(b)(ii), vary the prohibition in subparagraph 4(a) to permit Dr. Ahmad to perform circumcisions under the supervision of the pediatric urologist conducting the assessment for the purposes of the assessment.

5. Pursuant to subsection 59.6(2) of *The Medical Act*:

a. Dr. Ahmad shall pay all costs arising from or incidental to the conditions described herein and the monitoring of their compliance by the College.

6. Pursuant to section 59.7(1) *The Medical Act*:

a. Dr. Ahmad must pay to the College costs of the investigation and inquiry in the amount of \$24,427.60 on the basis of the attached cost calculation payable in full by certified cheque on or before the date of the Inquiry.

7. If there is any disagreement between the parties respecting any aspect of the Panel's Order, the matter may be remitted by either party to a Panel of the Inquiry Committee for further consideration, and the Inquiry Committee hereby expressly reserves jurisdiction for the purpose of resolving any such disagreement.

8. There will be publication in the usual course as set out in *The Medical Act*, including Dr. Ahmad's name, as determined by the Investigation Committee.

9. The College, at its sole discretion, may provide information regarding this disposition to such person(s) or bodies as it considers appropriate."

ANALYSIS

In assessing whether or not the Joint Recommendation as to Disposition should be accepted and which Order or Orders ought to be granted pursuant to subsection 59.6 of the *Act*, it is useful to consider the objectives of such Orders. On the basis of a review of judicial authorities and of decisions of other Panels in Manitoba and decisions of other equivalent bodies in other jurisdictions, those objectives include:

- (a) The protection of the public. Orders under subsection 59.6 of the *Act* are not simply intended to protect the particular patients of the

physician involved or those who are likely to come into contact with the physician, but are also intended to protect the public generally by maintaining high standards of competence and professional integrity among physicians;

- (b) The punishment of the physician involved;
- (c) Specific deterrence, in the sense of preventing the physician involved from committing similar acts of misconduct in the future;
- (d) General deterrence, in the sense of informing and educating the profession generally as to the serious consequences which will result from breaches or recognized standards of competent and ethical practice;
- (e) Protection of the public trust in the sense of preventing a loss of faith on the part of the public in the medical profession's ability to regulate itself;
- (f) The rehabilitation of the physician involved in appropriate cases, recognizing that the public good is served by allowing properly trained and educated physicians to provide medical services to the public; and
- (g) Proportionality between the conduct of the physician and the orders granted under subsection 59.6 of the *Act*.

The above-noted objectives do not constitute an exhaustive list. Numerous authorities have referred to other factors which ought to be considered, or which may be particularly applicable in specific cases. Additional factors which are relevant in this case are:

- (a) The impact of the misconduct on the patients and their families;
- (b) The vulnerability of the patients; and

- (c) The role of the physician in failing to immediately acknowledge what had occurred.

As outlined elsewhere in these Reasons, all of the charges outlined in the Amended Notice of Inquiry dated June 6, 2018 have been proven. Dr. Ahmad is therefore guilty of professional misconduct, of having contravened By-Law 1 and By-Law 11 of the College and of displaying a lack of knowledge, skill and judgment in the practice of medicine.

Dr. Ahmad's professional shortcomings as outlined in the Amended Notice of Inquiry were multi-dimensional. They were not simply limited to a series of circumcisions performed incompetently, using outdated and inappropriate surgical techniques. Dr. Ahmad's professional shortcomings also included:

- (i) A failure to recognize deficiencies in his own skills and competencies and that he had fallen behind in his knowledge of current techniques and procedures and that he therefore required an updating of his skills and competencies, before undertaking circumcisions;
- (ii) A neglect or failure to advise the patients and their parents of the risks associated with circumcisions and a failure to obtain informed consent for the procedures;
- (iii) Inadequate post-operative care;
- (iv) A failure to create appropriate and contemporaneous records of the procedures and of the post-operative care provided;
- (v) Attempts to persuade the parents of families of certain of the patients not to disclose to hospital staff and other healthcare providers that he had performed the circumcisions in question;
- (vi) Inappropriate payments to the family of at least one patient who had experienced serious post-operative complications requiring additional medical care; and

- (vii) The provision of misleading information to the College with respect to the creation of medical records relating to the circumcisions and the post-operative care provided to the patients.

Dr. Ahmad's professional misconduct and his contraventions of the By-Laws of the College and of the Code of Ethics of the College, caused harm and in some cases potentially serious harm to various of the patients on whom he performed circumcisions. Furthermore, Dr. Ahmad's actions caused many of the patients and their families serious upset and anxiety. All of the patients involved were young and vulnerable. Many of the family members of the patients were also vulnerable in the sense of not being fully informed by Dr. Ahmad as to the risks associated with the procedure while reposing their trust in Dr. Ahmad to perform the circumcisions competently.

The seriousness of Dr. Ahmad's professional misconduct and his other breaches of professional standards must be reflected by the Orders granted by the Panel.

Punishment of Dr. Ahmad is warranted. The Joint Recommendation provides for punishment of Dr. Ahmad in the following ways:

- (a) The reprimand pursuant to subsection 59.6(1)(a) of the *Act* is not merely a token admonishment, but is a formal denunciation of Dr. Ahmad's misconduct by the Panel;
- (b) A period of suspension for a fixed period of at least five months effective October 15, 2018, and potentially longer, depending on when Dr. Ahmad completes the course in medical professionalism and ethics to the satisfaction of the Chair of the Investigation Committee. The suspension, whether for five months, or longer, will have a negative financial impact upon Dr. Ahmad by way of a loss of income;
- (c) Payment by Dr. Ahmad of the College's costs of the investigation and inquiry in the amount of \$24,427.60; and

- (d) Publication, including Dr. Ahmad's name, as determined by the Investigation Committee; publication is partly punitive because of the embarrassment and disgrace associated with such publication.

The fundamental and primary purpose of Orders made under subsection 59.6 of the *Act* is the protection of the public, including the protection of patients and others with whom the physician will come into contact, and the protection of the public more generally by the maintenance of high standards of competence and integrity among physicians.

The fundamentally important objective of public protection will be fulfilled by an acceptance of the Joint Recommendation, in at least two ways, which are:

- (i) The completion of the course in medical professionalism and ethics to the satisfaction of the Chair of the Investigation Committee; and
- (ii) The limits to be placed on Dr. Ahmad's practice pursuant to subsection 59.6(1)(e) of the *Act*, being a prohibition from performing circumcisions. The prohibition may only be varied or deleted by the Chair of the Investigation Committee upon the fulfilment of certain conditions by Dr. Ahmad which are designed to ensure that he is able to perform circumcisions safely and competently.

In assessing the appropriateness of the Joint Recommendation in relation to the nature and extent of Dr. Ahmad's misconduct, and the fundamentally important objective of the protection of the public, the Panel also carefully reviewed the authorities submitted to it by the parties and specifically considered the penalties imposed in other cases involving somewhat analogous circumstances. As is usually the case, none of the authorities submitted were factually similar. Nonetheless the Panel is satisfied that the length of the suspension and the other punitive elements contemplated by the Joint Recommendation are within a reasonable range of outcomes as defined by those authorities.

The Panel was troubled by the preparation of medical records by Dr. Ahmad relating to the circumcisions after the fact, and only after the College had requested such records. However, the manner in which Dr. Ahmad provided the records to the College and his candour about the timing of the preparation of those records, when asked for an explanation by the College, suggest he was not being calculatingly deceitful. The Panel is hopeful that the investigation of this matter and the disposition contemplated by the Joint Recommendation will emphasize to Dr. Ahmad, the critical importance of always creating a contemporaneous medical record and will deter him from failing to do so again.

The Panel was also troubled by the contradictory information provided to the College by Dr. Ahmad with respect to payments made to patients and their families. Dr. Ahmad may have been legitimately confused and unclear as to the payments he made, because he apparently kept no record of the payments. The Panel has concluded that regardless of which of Dr. Ahmad's versions relating to payments to patients is accurate, the Joint Recommendation is appropriate, and is suitable in either circumstance.

Specific deterrence of Dr. Ahmad will be fulfilled by the punitive aspects of the Joint Recommendation referred to elsewhere in these Reasons. General deterrence, in the sense of educating the profession about the consequences of misconduct as set forth in the Amended Notice of Inquiry will be achieved by publication, as determined by the Investigation Committee.

The Panel is aware that the College frequently adopts a rehabilitative approach in physician misconduct cases and recognizes that the public good will often be served by allowing a trained and educated physician to provide medical services to the public. In this case, all of the matters referred to in the Statement of Agreed Facts related to circumcisions. The College does not have evidence that Dr. Ahmad failed to meet appropriate professional standards in any other area of his practice. Rehabilitation is therefore possible and appropriate in this case.

It is therefore the conclusion of the Panel that the Joint Recommendation fulfils the purposes and objectives of Orders under subsection 59.6 of the *Act*.

Specifically, the Panel is satisfied that the Joint Recommendation protects the public interest while allowing for the rehabilitation of Dr. Ahmad.

CONCLUSION

Based on all of the foregoing, the Inquiry Panel has decided that the Joint Recommendation as to Disposition made by the Investigation Committee of the College and by Dr. Ahmad will be accepted. The Panel hereby issues an Order, as more particularly set forth in the Resolution and Order issued concurrently herewith and attached hereto.

DATED this 14th day of December, 2018.

IN THE MATTER OF: *THE MEDICAL ACT*, CCSM c.M90, Part X
AND IN THE MATTER OF: DR. EJAZ AHMAD, A MEMBER OF THE COLLEGE
 OF PHYSICIANS AND SURGEONS OF MANITOBA
AND IN THE MATTER OF: A NOTICE OF INQUIRY DATED JUNE 6, 2018

RESOLUTION AND ORDER OF THE INQUIRY PANEL

WHEREAS Dr. Ejaz Ahmad (“Dr. Ahmad”), a member of the College of Physicians and Surgeons of Manitoba (the “College”) was charged with professional misconduct and with contravening By-Law 1 and By-Law 11 of the College and with displaying a lack of knowledge, skill or judgment in the practice of medicine, as more particularly outlined in a Notice of Inquiry, dated June 6, 2018;

AND WHEREAS Dr. Ahmad was summoned and appeared before an Inquiry Panel (the “Panel”) of the College with legal counsel on October 15, 2018;

AND WHEREAS on October 15, 2018 Dr. Ahmad, through his counsel, consented to an amendment to the Notice of Inquiry. Immediately thereafter, an Amended Notice of Inquiry also dated June 6, 2018, was filed as an Exhibit at the hearing before the Panel;

AND WHEREAS Dr. Ahmad entered a plea of guilty to all of the charges and allegations outlined in the Amended Notice of Inquiry;

AND WHEREAS counsel for the Investigation Committee of the College made a motion pursuant to subsection 56(3) of *The Medical Act* for an order protecting the identity of all patients and any third parties referred to in the proceedings, and for an order preventing the disclosure, publication or transmission of various photographs to be referred to in the proceedings, due to the personal and private nature of the photographs, which motion was consented to by Dr. Ahmad;

AND WHEREAS the Panel reviewed all of the Exhibits filed, including a detailed Statement of Agreed Facts and the extensive documentation appended thereto, heard submissions from counsel for the Investigation Committee of the College and submissions from counsel for Dr. Ahmad, and received a Joint Recommendation as to Disposition of the charges and allegations outlined in the Amended Notice of Inquiry from the parties;

AND WHEREAS the Panel decided that the Joint Recommendation as to Disposition was appropriate in the circumstances.

NOW THEREFORE BE IT AND IT IS HEREBY RESOLVED AND ORDERED THAT:

33. Pursuant to subsection 56(3) of *The Medical Act*, there shall be no disclosure of the names or other identifying information of any patients or other third parties who may be referred to in the proceedings, or who may be referred to in any of the Exhibits in the proceedings, and there shall be no disclosure, publication or transmission of any photographs referred to in the proceedings.
34. Pursuant to subsection 59.6(1)(a) of *The Medical Act*, Dr. Ahmad is hereby reprimanded by the Panel.
35. Pursuant to subsection 59.6(1)(b) of *The Medical Act*, Dr. Ahmad will be suspended from the practice of medicine for a fixed period of five (5) months effective October 15, 2018.
36. Pursuant to subsection 59.6(1)(c) of *The Medical Act*, Dr. Ahmad shall be indefinitely suspended from the practice of medicine until he completes, at his own expense and to the satisfaction of the Chair of the Investigation Committee ("Chair"), a course in medical professionalism and ethics.
37. Pursuant to subsection 59.6(1)(e) of *The Medical Act*, Dr. Ahmad's entitlement to practice medicine will be limited as follows:

- (a) Dr. Ahmad will be prohibited from performing circumcisions;
- (b) The prohibition in subparagraph 5(a) may be varied or deleted by the Chair where he or she is satisfied that Dr. Ahmad is able to safely and competently perform circumcisions and only after Dr. Ahmad:
 - (i) undergoes formal training and education, at his own expense, satisfactory to the Chair; and
 - (ii) provides a report satisfactory to the Chair from a pediatric urologist registered in Manitoba, who has personally assessed Dr. Ahmad's ability to perform circumcisions, opining that Dr. Ahmad is able to safely and competently perform the procedure;
- (c) Notwithstanding subparagraphs 5(a) and 5(b), the Chair may, upon receiving a description of the assessment process referred to in subparagraph 5(b)(ii), vary the prohibition in subparagraph 5(a) to permit Dr. Ahmad to perform circumcisions under the supervision of the pediatric urologist conducting the assessment for the purposes of the assessment.

38. Pursuant to subsection 59.6(2) of *The Medical Act*.

- (a) Dr. Ahmad shall pay all costs arising from or incidental to the conditions described herein and the monitoring of their compliance by the College.

39. Pursuant to subsection 59.7(1) of *The Medical Act*.

- (a) Dr. Ahmad must pay to the College the costs of the investigation and inquiry in the amount of \$24,427.60 payable in full, forthwith by certified cheque.

40. If there is any disagreement between the parties respecting any aspect of the Panel's order, the matter may be remitted by either party to a Panel of the Inquiry Committee for further consideration, and the Inquiry Committee hereby expressly reserves jurisdiction for the purpose of resolving any such disagreement.

41. There will be publication in the usual course as set out in *The Medical Act*, including Dr. Ahmad's name, as determined by the Investigation Committee.
42. The College, at its sole discretion, may provide information regarding this disposition to such person(s) or bodies as it considers appropriate.

DATED this 14th day of December, 2018.