

IN THE MATTER OF: *The Regulated Health Professions Act,*
C.C.S.M., c. R117, Part 8

AND IN THE MATTER OF: DR. SHAMOON HASHAM DIN, a member of the
College of Physicians and Surgeons of Manitoba

AND IN THE MATTER OF: an Amended Notice of Inquiry dated September 17,
2021

INQUIRY PANEL:

Alan Scramstad, Chairperson and Public Representative

Dr. Carry Martens-Barnes

Dr. James Price

**REASONS FOR DECISION OF AN INQUIRY PANEL OF THE COLLEGE OF
PHYSICIANS AND SURGEONS OF MANITOBA**

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REASONS FOR DECISION OF THE INQUIRY PANEL

INTRODUCTION

On January 31, 2022, a hearing was convened for two days before an Inquiry Panel (the “Panel”) of the College of Physicians and Surgeons of Manitoba (the “CPSM”) for the purpose of conducting an inquiry pursuant to Part 8 of *The Regulated Health Professions Act C.C.S.M. C. R117* (the “Act”) into charges against Dr. Shamooin Hasham Din (Dr. Din), a member of the CPSM, as set forth in an Amended Notice of Inquiry dated September 17, 2021.

The Amended Notice of Inquiry charged Dr. Din with professional misconduct, with contravening the Act or the Practice of Medicine Regulation, the Standards of Practice of Medicine and/or the Code of Ethics, with demonstrating an unfitness to practice medicine and conduct unbecoming a member.

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

1. Between in or about October 2020 and April 2021, Dr. Din engaged in professional misconduct, conduct unbecoming a member, and/or contravened the Code of Ethics and/or the Practice of Medicine Regulation in that Dr. Din breached an undertaking he made to the CPSM and breached orders imposed by an Inquiry Panel.
2. During the course of Dr. Din’s practice of medicine, from in or about October 1, 2020 until April 1, 2021, he contravened the Code of Ethics of the CPSM in that he created false and misleading medical records relating to the presence of a chaperone for 36 female patients to whom Dr. Din provided care.
3. During the course of Dr. Din’s practice of medicine, from in or about October 1, 2020, until in or about April 1, 2021, Dr. Din contravened the Practice of Medicine Regulation and/or Code of Ethics in that he practiced beyond the boundaries of his certificate of practice in Family Medicine, which excludes providing medical care

to paediatric patients and thereby committed acts of professional misconduct and/or engaged in conduct unbecoming a member. Dr. Din provided medical care to patients under 18 years of age whose identities were known to him.

4. During the course of Dr. Din's practice of medicine, from in or about January 2021 until in or about March 2021, he violated his ethical obligations to Patient A, contravened the Code of Ethics of the CPSM and/or the Standards of Practice of Medicine, and/or committed acts of professional misconduct and/or engaged in conduct unbecoming a member in that Dr. Din failed to maintain professional boundaries with Patient A.
5. Dr. Din has displayed an unwillingness or inability to comply with the standards and meet the requirements of and/or be governed by the CPSM and has thereby demonstrated an incapacity or unfitness to practice medicine.

The Amended Notice of Inquiry also contained factual particulars with respect to the allegations in Counts 1, 2 and 4.

The hearing proceeded before the Panel on January 31, 2022 and February 1, 2022, in the presence of Dr. Din and his counsel, and in the presence of counsel for the Complaints Investigation Committee of the CPSM (herein the "CPSM"). Dr. Din, through his counsel, admitted his membership in the CPSM, and confirmed that the Panel had jurisdiction over the matters at issue. Dr. Din, 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 CPSM made a motion pursuant to subsection 122(2) 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. This motion was consented to by Dr. Din. The Panel, being satisfied that the desirability of avoiding public disclosure of the identities of patients and other third parties, outweighed the desirability of the identities of the patients, other third parties being made public, approved the motion. As such, there shall be no disclosure of

the names or any identifying information of any patients or third parties who may be referred to in the proceedings, or in any of the exhibits in the proceedings.

Dr. Din waived the reading of the Amended Notice of Inquiry and entered a plea of guilty to Counts 1, 2 and 3. By doing so, he admitted the truth of all of the allegations and of the factual particulars in support of each of those counts.

Dr. Din entered a plea of not guilty with respect to Counts 4 and 5. However, Dr. Din admitted the factual particulars as set out in Count 4.

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 September 17, 2021 (Exhibit 1);
2. An Amended Notice of Inquiry dated September 17, 2021 (Exhibit 2);
3. Statement of Agreed Facts (Exhibit 3); and
4. Book of Agreed Documents (Exhibit 4).

In addition, the Panel heard from the following witnesses:

- Witness 1
- Witness 2
- Patient A

Having entered a guilty plea to Counts 1, 2 and 3, which pleas, for the reasons set out herein, are accepted by the Panel having regard to the evidence before it, the Panel, must decide whether the CPSM has met its burden of proof regarding Counts 4 and 5 of the Amended Notice of Inquiry. As detailed herein, the Panel is satisfied the CPSM has met its burden of proof regarding the charges and allegations in Counts 4 and 5 of the Amended Notice of Inquiry.

BACKGROUND

1. Dr. Din was born in Canada on August 4, 1976. He graduated from the Grace University School of Medicine in Belize in 2001.
2. Dr. Din passed the Medical Council of Canada evaluating exam in 2003. He obtained his family medicine training in the United States in 2009. Dr. Din Commenced practice as a conditional registrant with the CPSM on July 11, 2015 as a family physician under supervision at a clinic in Winnipeg.
3. Dr. Din continued to be registered as a conditional registrant with CPSM from June 2015 until January 2019 when that class of registration was retitled provisional registration. From January 2019 to June 2021, Dr. Din was a provisional registrant with CPSM. He is not currently registered with CPSM.
4. On September 12, 2018, conditions were placed on Dr. Din's entitlement to practice medicine by an Inquiry Panel pursuant to subsection 59.6(1)(e) of *The Medical Act*.
5. On or about July 30, 2019, Dr. Din signed an undertaking (the "Undertaking") to the CPSM which promised, among other things, that:
 - Dr. Din would not engage in solo practice;
 - Dr. Din's practice would be restricted to the Harbourview Medical/Walk-In Clinic (the "Clinic") and the Family Care Medical Centre;
 - a female attendant must be present as a chaperone at all times when Dr. Din met with or examined a female patient;
 - Dr. Din would document the attendance of the chaperone and require the chaperone to maintain a daily list of all patients and the reason for their attendance;
 - Where the presence of the attendant was required, Dr. Din would ensure that the attendant remain present, carefully observed his encounters with

patients, had an unobstructed view of the encounter; and would refrain from performing other functions while doing so;

- Dr. Din must place in the office reception and examination rooms conspicuous signage respecting the requirement for a chaperone;
- Dr. Din would not communicate with patients outside their attendance at the Harbourview Medical/Walk-In Clinic or the Family Care Medical Centre, except in the limited manner set-out in the undertaking;
- a practice supervisor must be present at all times on site when Dr. Din saw patients and the practice supervisor must agree to provide the CPSM with progress reports indicating compliance with the practice conditions set out in the undertaking.

6. As of May 16, 2019, and at all material times, Dr. Din's certificate of practice excluded pediatrics.
7. On March 16, 2020, Dr. Din and his practice supervisor signed a temporary variance (the "March Variance") to the Undertaking, as a result of Covid-19, which provided that the practice supervisor could fulfil his role as supervisor for Dr. Din by virtual means when needed. The condition of requiring a chaperone was not varied in any aspect from the Undertaking, and a chaperone was still required for virtual visits.
8. On or about December 11, 2020, Dr. Din and his supervisor signed another variance (the "December Variance") to their respective undertakings due to the potential for interruption in services due to COVID-19. The requirement that Dr. Din only practice on-site at the Clinic was expanded to allow Dr. Din to "...practice virtual medicine from a remote location, including his home, when one or more of the following situations occurred:
 - a. The Clinic was closed to in-person assessments as a result of the COVID-19 pandemic; and

- b. Dr. Din was required to isolate or quarantine as a result of the COVID-19 pandemic and could not therefore attend the Clinic.
9. The condition of requiring a chaperone for visits with female patients was not varied, in that a chaperone was still required for virtual visits. The December Variance allowed for the chaperone to sign by virtual means. Where it was not possible to have a chaperone sign the record, the requirement for the signature was waived although Dr. Din was required to chart the reasons why it was not possible.

INVESTIGATION

10. On March 15, 2021, Patient A raised concerns about Dr. Din by way of e-mail to the Registrar of the CPSM (the "Registrar"). Patient A's complaint related to inappropriate communications that she alleged to have received from Dr. Din.
11. On March 26, 2021, the registrar referred Patient A's concerns to the Investigation Committee. Dr. Din was advised of the referral by letter dated March 26, 2021.
12. Dr. Din was asked by the Investigative Committee Chair not to practice on the upcoming weekend. He cooperated with the CPSM. This verbal agreement was subsequently extended for several more days until a formal undertaking to cease practice was signed by Dr. Din in on April 9, 2021. Dr. Din has not practiced since signing the undertaking.
13. On March 29, 2021, Dr. Din provided a written response to the CPSM addressing the concerns raised in Patient A's email. Later that day he provided an additional letter to clarify his communications with Patient A.
14. On March 30, 2021, Dr. Din provided a second clarification letter to the CPSM.
15. On April 1, 2021, Patient A filed a formal written complaint.

16. On April 5, 2021, Patient A's formal complaint was provided to Dr. Din by the CPSM, along with a request that Dr. Din participate in an interview with the Investigator.
17. On April 7, 2021 Dr. Din was interviewed by an Investigator. A transcript was prepared.
18. On April 12, 2021, Dr. Din provided a response to the CPSM in answer letters from the CPSM.

ANALYSIS

Counts 1, 2, and 3

Dr. Din has pleaded guilty to Counts 1, 2, and 3 as noted above.

The Panel notes that Dr. Din's conduct included, but was not limited to, seeing female patients without chaperones contrary to the restrictions on his practice, creating false and misleading medical records, emailing Patient A with information which was not related to her medical care, sending a text to Patient A with a picture of himself on a non-medical matter, failure to document communications with Patient A, and that he practiced beyond the boundaries of his certificate of practise by treating juvenile patients.

Upon considering all of the evidence, including the viva voce evidence provided at the Hearing and Dr. Din's plea of guilty, the panel finds that the evidence overwhelming supports the charges against Dr. Din as set out in Counts 1, 2 and 3. The disposition of these charges will be addressed at a further meeting of the panel.

Count 4

Count 4 provides:

"During the course of Dr. Din's practice of medicine, from in or about January 2021 until in or about March 2021, he violated his ethical obligations to Patient A, contravened the Code of Ethics of the CPSM and/or the Standards of Practice of Medicine, and/or committed acts of professional misconduct engaged in conduct

unbecoming a member in that Dr. Din failed to maintain professional boundaries with Patient A.”

The Count includes various particulars. As noted above, Dr. Din accepts as fact those particulars. Dr. Din has also agreed to certain further facts as they relate to Count 4 and those facts are as set out in the Agreed Statement of Facts.

In light of those admissions, the Panel is tasked with determining whether the CPSM has met its burden of proof to establish guilt on the part of Dr. Din under Count 4.

It was argued by Counsel for Dr. Din that the words “in that you failed to maintain appropriate professional boundaries with Patient A” qualifies the count. As such, to find Dr. Din guilty, the Panel would need to conclude that he either breached the Code of Ethics, breached a Standard of Practice of Medicine, committed an act of professional misconduct, or engaged in conduct unbecoming a member, by failing to maintain professional boundaries. The Panel accepts that is the correct way to interpret Count 4.

Turning first to the issue as to whether Dr. Din has breached the Code of Ethics by failing to maintain professional boundaries, the Panel was referred to Part A. *Virtues Exemplified by the Ethical Physician* of the Code. In particular, the Panel was referred to the virtues of “Honesty” and “Integrity”. Having reviewed the particulars of Count 4, the agreed Statement of Facts and oral evidence as it relates to Count 4, the Panel is not satisfied that the CPSM has established a breach of honesty and integrity. Put another way, the Panel is not satisfied on a balance of probabilities that there is evidence of a breach of honesty and integrity having regard to Dr. Din’s interactions with Patient A.

Under the Code of Ethics, the Panel was also referred to Part B. *Fundamental Commitments of the Medical Profession*. In particular, the Panel was referred to the section “Commitment to the well-being of the Patient”, which requires a member to:

- Consider first the well-being of the patient; always act to benefit the patient and promote the good of the patient;
- Provide appropriate care and management across the care continuum;
- Take all reasonable steps to prevent or minimize harm to the patient; disclose to the patient if there is a risk of harm or if harm has occurred;
- Recognize the balance of potential benefits and harms associated with any medical act; act to bring about a positive balance of benefits over harms.

The Panel has concluded that Dr. Din breached the Code of Ethics having regard to the Commitment to the well-being of the Patient. The Panel is satisfied that there was no reason to have contacted Patient A on at least two occasions. The first was when Patient A was away for the weekend. The Panel accepts the evidence of Patient A, which was not challenged on cross-examination, that one of the stated reasons for going away was to relax.

In her evidence, in reply to a question from Counsel for the CPSM, Patient A testified that:

In the middle of the night I received a text message on one of those, one of the dates on the weekend. I think it was like the 13th or 14th, I guess. Like it was –I went to bed on the 13th and I woke on the 14th to a text message that had come through in the middle of the night with regards to partying and a hot tub time machine.

Her further evidence regarding the message came on cross-examination:

Well, that was the end of the text message. The beginning of the text message started with I hope you're, something along the lines of, partying and relaxing. And then the hot tub time machine at the end.

At Exhibit 4, Tab 19, Dr. Din advised the CPSM that “I do not recall sending a message to [Patient A], or to anyone about “partying” or “hot tub time machine.” Dr.

Din further notes “I do not recall and do not see any context for some of the communication the patient suggested, other than to say it was in response to something they said or was perhaps sent to the wrong person”.

While Dr. Din does not recall sending the text, he does not expressly deny doing so and Patient A was not challenged on cross examination about her assertion she received the text message.

The second occasion was on March 4, 2021 when, which has been admitted, Dr. Din sent a text to Patient A that read “Hoping ur rockin it killin shahwtyyyyy”. At Exhibit 4, Tab 10, Dr. Din advised the CPSM, in a letter dated March 30, 2021, being 26 days later, that he believed he sent the text in response to an earlier communication about “grueling work schedule or pressure in the [REDACTED] field, factors attributing to her overall health”. Dr. Din further advised that “these communications may be delayed or at time I was able to address them.”

Patient A denies the text is in response to an earlier communication. Patient A was not cross-examined on this point and her evidence remained unchallenged.

The Panel accepts the evidence of Patient A that this text was received independent of any previous communication. However, and in any event, even if the evidence of Dr. Din was accepted on this point, the Panel finds he was not considering the well-being of Patient A by sending a text at 1:43 a.m., when it may have been convenient for him. Patient A had communicated and was seeking treatment for being unable to sleep. It defies credulity for a doctor, who is treating a patient for insomnia, to send a text at 1:43 a.m. regardless of whether the patient was working extended hours.

The Code of Ethics makes clear the importance of the patient-physician relationship:

The patient-physician relationship is at the heart of the practice of medicine. It is a relationship of trust that recognizes the inherent vulnerability of the patient even as the patient is an active participant in their own care. The physician owes a duty of loyalty to protect and further the

patient's bests interest and goals of care by using the physician's expertise, knowledge, and prudent clinical judgment.

These communications to Patient A failed to "consider first the well-being of the patient; always act to benefit the patient and promote the good of the patient". As such, the Panel is satisfied there has been a breach of the Code of Ethics.

Having found a breach of the Code of Ethics, it is not technically necessary for the Panel to consider whether Count 4 has otherwise been established. However, significant argument was made regarding a breach of the Standard of Practice of Medicine – *Good Medical Care* (the "Standard") and, as such, the Panel makes the following comments.

Count 4 alleges a breach of section 6 of the Standard, which provides:

6. Maintaining Boundaries: Current Patients

6.1 A member must maintain appropriate professional boundaries in any interaction with a current patient. Examples of prohibited conduct include:

- 6.1.1. Initiating any form of sexual advance toward a patient;
- 6.1.2. responding sexually to advances made by a patient; and
- 6.1.3 not taking appropriate steps to respect the patient's privacy and dignity when conducting or offering to conduct a physical examination.

6.2 A member must not sexualize any interaction with a current patient. Inappropriate member-patient interactions of a sexual nature encompass a spectrum of behaviours, which may include:

- 6.2.1. providing adequate draping;
- 6.2.2. not providing privacy while the patient is undressing or dressing;
- 6.2.3. not offering the presence of a chaperone during a sensitive examination.
- 6.2.4. being judgmental of a patient's sexual orientation or activities;

- 6.2.5. sexualizing comments, gestures or tone of voice;
- 6.2.6. requesting details of a sexual history when not medically indicated;
- 6.2.7. not obtaining informed consent for intimate or sensitive examinations;
- 6.2.8. using unorthodox examination techniques including inappropriate touching of the breasts, genitalia, or anus;
- 6.2.9. sexualizing body contact, including kissing, hugging or fondling. This does not prohibit hugging in appropriate circumstances where there is no sexual aspect to the physical contact;
- 6.2.10. socializing with patient in the context of developing an intimate relationship;
- 6.2.11. making member-patient sexual contact;
- 6.2.12. scheduling appointments for examinations outside normal office hours.

This list is not exhaustive.

The CPSM argued that the communications of Dr. Din, in relation to Patient A, were of a sexual nature. The Panel is not satisfied there is sufficient evidence to support that finding.

Having regard to the evidence of Patient A, on cross-examination by Counsel for Dr. Din, Patient A acknowledged that she was comfortable with the informal discussions she had with Dr. Din in the first appointment.

In response to questions from counsel for the CPSM, the Patient confirmed her opinion that she did not feel Dr. Din was trying to engage her. With respect to the text message Patient A says she received on February 13 or 14, 2021, her evidence was as follows:

And, I, sorry, I'll clarify. It wasn't that like -- like the message was like I hope you're, you know, having fun, like have fun at your hot tub time machine and party, not like trying to engage me in -- I mean that's not the impression I got. I was still like just as put back. But I'm just clarifying that the text message wasn't asking me to participate in a hot tub time machine or party. It was just in reference to something that I had disclosed in our patient/physician interaction.

With respect to the text message Patient A says she received on March 4, 2021, her evidence was:

Just, like I just couldn't see what his motive was at this point in time or why he would continue, or like how he wasn't scared for his like professional career, to some extent, that like he was acting like this, you know, to a medical student, and like not even putting myself in -- like now that I think back to it, like a patient, which just seemed like -- yes, sorry, I don't mean to rant. I just --

Based on the evidence before the Panel, it is unable to conclude that the text "Hoping ur rockin it killin shahwtyyyyy" is of a sexual nature. The Panel is unable to conclude that other correspondence or interactions between Dr. Din and the Patient were of a sexual nature.

Having made this finding, the Panel must now assess whether there has, nonetheless, been a breach of section 6 of the Standard. Counsel for the CPSM argues that section 6 is not limited by the examples given and notes that section 6.2 specifically says "this list is not exhaustive". Counsel for Dr. Din argued that while the list may not be exhaustive, the conduct at issue must still be of a sexual nature as that is the subject matter of section 6 of the Standard.

In support of the position, Dr. Din relies on the well established statutory interpretation principle of *ejusdem generis*. The principle being that where general words or phrases follow a number of specific words or phrases, the general words are specifically construed as limited and apply only to persons or things of the same kind or class as those expressly mentioned. In support of the argument, the Panel was referred to *National Bank of Greece (Canada) v. Katsikonouris*, [1990] 2 S.C.R. 1029, at

paragraphs 11 and 12, and *Consumers' Assn. of Canada v. Canada* (Postmaster General), [1975] F.C.11.

The Panel agrees that this principle of interpretation ought to apply to the Standard. Section 6 is clearly dealing with maintaining professional boundaries in a sexual context. While the Panel accepts that unwanted text messages of a non-sexual nature should not be made by a physician to their patient, such conduct does not fall within section 6 of the Standard. As such, a breach of section 6 of the Standard has not been proven by the CPSM

The Panel concludes the CPSM has established a breach of the Code of Ethics under Count 4 but has not established a breach of the Standard under Count 4. The result is that Dr. Din is guilty under Count 4.

Count 5

Count 5 Provides:

Dr. Din has displayed an unwillingness or inability to comply with the standards and meet the requirements or inability to comply with the standards and meet the requirements of/and/or be governed by the CPSM and has thereby demonstrated an incapacity or unfitness to practice medicine.

Count 5 requires the Panel to consider the evidence before it, having regard to the admission of guilt to Counts 1, 2 and 3 and the Panel's finding of guilt regarding Count 4, to determine whether, on a balance of probabilities, the CPSM has met its burden of proof regarding Count 5.

The panel understands the significance of a finding of guilty under Count 5. The Panel acknowledges and agrees with the comments of Dr. Din's counsel that:

"These are extremely serious allegations that have the potential to having a significant and lasting impact on his ability to practise."

With this in mind, the Panel is satisfied that the CPSM has met its burden of proof and finds that Dr. Din is guilty under Count 5 for the following reasons.

Female Chaperone

Dr. Din was subject to a very clear undertaking as part of the Undertaking, executed in July 2019, that he was to have a female attendant present as a chaperone at all times when he met with or examined a female patient.

The Panel acknowledges that the time frame in which the Amended Notice of Inquiry is concerned is between October 2020 and April 2021 regarding Counts 1, 2 and 3, and January 21, 2021 until March 2021 regarding Count 4. The Panel also acknowledges that these time periods existed during the unusual circumstances of Covid-19. If Covid-19 created any ambiguity for Dr. Din about how to comply with both the Undertaking and the public health guidelines to socially distance, it was incumbent on him to follow up with the CPSM and seek guidance. That did not occur. Instead, Dr. Din received and signed off on two temporary variations to the Undertaking. The first is the March Variance as recorded in an e-mail dated March 13, 2020, which was signed and acknowledged by Dr. Din on March 16, 2020. The second is the December Variance as recorded by an e-mail dated November 25, 2020, which was signed and acknowledged December 11, 2020. The result of which was that by December 11, 2020 (the effective date of the last temporary variation):

- Dr. Din remained at all times subject to the requirement that a female chaperone be present at all times when he met with or examined a female patient;
- Dr. Din was required to have a chaperone for all virtual visits conducted by Dr. Din;
- The presence of a chaperone was to be recorded in the chart of the patient and where it was not possible to sign the record, the requirement would be waived only where Dr. Din charted the reasons why it was not possible.

Despite the foregoing, the records and agreed facts before the Panel show Dr. Din consistently meeting with female patients without a chaperone, recording the presence of a chaperone when one was not present and not having a female chaperone present at all for virtual telephone visits despite the clear variation as set out above.

While the Panel accepts the evidence of Witnesses 1 and 2, it was difficult to assess in which time frame, for example, Dr. Din refused an express request for a chaperone. In other words, the evidence was not clear that this occurred during October 2020 and April 2021 as set out in the Amended Notice of Inquiry, being the relevant time period. However, the evidence is clear from Witnesses 1 and 2 that they were not present for virtual visits, were not always present in the examination room, particularly after the presence of Covid-19 and were aware of their names being recorded in chart records of their presence as a chaperone when that had not occurred. All of these facts have been agreed to by Dr. Din.

The evidence makes clear a pattern of disregarding the unambiguous Undertaking, a promise to the CPSM, over and over. The Panel is particularly struck by the fact that not only was a chaperone not always present as required but efforts were made to cover up that fact by noting a chaperone was present in the chart note of a patient. The breach and action to conceal the breach happened over and over in a relatively brief period of time. The Panel notes that of the random sample of 36 female patients and the corresponding 113 completed encounter notes, only one chart properly confirmed the presence of a chaperone. This is evidence of a blatant disregard for the Undertaking to the CPSM.

Creation of False and Misleading Medical Records

As set out above, Dr. Din has admitted to creating false and misleading medical records.

The Standards of Practice of Medicine provide, in part, that:

Patient Records:

11(1) A member must appropriately document the provision of patient care in a record specific to each patient.

...

11(4) For greater certainty a member who provides medical care by virtual medicine must comply with this section.

...

The Panel notes that accurate and complete medical records are a fundamental requirement for the practice of medicine. The requirement protects both the patient and the physician. Proper medical records help ensure that patients get the right care at the right time.

As noted previously, Dr. Din claimed that female chaperones were present when he dealt with and treated female patients. The evidence clearly establishes that Dr. Din did not always have female chaperones when he was treating female patients and that he made false entries on the charts of the female patients.

The panel also notes that Dr. Din admitted that he provided care to pediatric patients and admitted that the charts reflected that he had a chaperone present for those patient visits when, in fact, a chaperone was not present.

The panel finds this conduct to be unacceptable.

Patients Under the Age of 18 years Old

Since May 16, 2019, Dr. Din was not permitted to treat anyone under the age of 18. Similar to the requirement for a chaperone for female patients, the March Variance to the Undertaking made clear that this restriction remained and that Dr. Din's

supervisor would ensure staff at the clinic had a system in place to ensure all patients under the age of 18 were not seen or scheduled to be seen by Dr. Din.

The evidence before the Panel is that between October 1, 2020 and April 1, 2021, Dr. Din treated a number of patients ranging from babies to age 17. The Panel notes that while the number of times is something less than the 35 encounter lines referred to in the materials, this was not a one-off situation but rather occurred several times. The Panel finds that it is irrelevant as to whether Dr. Din was accidentally booked with a minor patient or whether a parent booked the appointment. The restriction is on Dr. Din and it was incumbent on Dr. Din to refuse to provide any treatment to any patient under the age of 17 in compliance with his practice restriction.

While one visit may be characterized as an emergency or mistake, multiple treatments of patients under the age of 18 is, once again, evidence of a blatant disregard for the restrictions placed on his practice.

Communications with Patients

Dr. Din was subject to a very specific undertaking that he would not communicate with patients outside of their attendance at the Clinic or the Family Care Medical Centre except for communicating to any patient abnormal test results or where communicating with a patient about the patient's health issues that cannot be reasonably dealt with in a regularly scheduled appointment.

The Panel finds that it is immaterial as to whether Patient A asked for Dr. Din's cell-phone number to make booking appointments easier. Dr. Din was obligated to decline the request due to the Undertaking he made. The Undertaking is then clearly breached immediately by sending a [REDACTED] photo [REDACTED] on the same day as the first appointment occurred with Patient A and then breached thereafter by subsequent text messages, as described in detail above.

Dr. Din acknowledged in his interview with Dr. Bullock-Pries that his actions was a "slippery slope". In any event, it is another example of clear breaches of a clear undertaking.

Communications with the CPSM

The Panel has had the opportunity to review the responsive letters of Dr. Din as well as the transcript created of the interview with Dr. Bullock-Pries. A thorough review shows inconsistent, convoluted, and a lack of forthrightness on the part of Dr. Din in dealing with his regulator.

Dr. Din was the subject of specific and detailed undertakings given in mid-2019, following a conviction and suspension in 2018. The evidence before this Panel is that by the fall of 2020, Dr. Din is repeatedly breaching those undertakings while actively trying to conceal those breaches. Dr. Din then fails, in the Panel's view, to cooperate in a truthful and transparent way with the CPSM.

The Applicable Law

The Court of Appeal of Manitoba in *Ahluwalia v. The College of Physicians and Surgeons of Manitoba*, 2017 MBCA 15 confirmed that falsifying patient charts and displaying a lack of truthfulness in one's testimony can demonstrate an unfitness to practice medicine.

In the *Matter of Dr. David Howell Ames*, Reasons for Decision, the Panel recognized that it is possible for a physician to be found to be unfit to practice medicine on the basis of a single act or an isolated series of acts towards one patient involving a flagrant breach of standards or a blatant disregard for a patient's well-being.

In the present case, the Panel is satisfied that Dr. Din's flagrant and repeated breaches of his Undertaking, his falsification of patient charts, his lack of truthfulness, treating female patients and patients under the age of 18 contrary to the conditions imposed on him and failing to be forthright with the CPSM, combined with his disregard for Patient A's well-being, all support a finding that Dr. Din is unfit to practice.

In the circumstances, the Panel is left with no choice but to conclude that the CPSM has met its burden having regard to Count 5. The totality of the evidence is that, on a balance of probabilities, Dr. Din is unable or unwilling to be governed by the

CPSM and is therefore unfit to practice. Dr. Din is guilty under Count 5 of the Amended Notice of Inquiry.

CONCLUSION

Based on all of the foregoing, the Panel has determined that Dr. Din is guilty on all 5 Counts as set out in the Amended Notice of Inquiry. The Panel hereby issues an Order under subsection 124(2) of the Act, as more particularly set forth in the Resolution and Order issued concurrently herewith and attached hereto.

DATED this 10th day of March, 2022.

IN THE MATTER OF: *The Regulated Health Professions Act,*
C.C.S.M. c. R117, Part 8 (the “Act”)

AND IN THE MATTER OF: DR. SHAMOON HASHAM DIN, a member of the
College of Physicians and Surgeons of Manitoba

AND IN THE MATTER OF: an Amended Notice of Inquiry dated September 17,
2021

INQUIRY PANEL:

Alan Scramstad, Chairperson and Public Representative

Dr. Carry Martens-Barnes

Dr. James Price

**RESOLUTION AND ORDER OF AN INQUIRY PANEL OF
THE COLLEGE OF PHYSICIANS AND SURGEONS OF MANITOBA**

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RESOLUTION AND ORDER OF THE INQUIRY PANEL

WHEREAS Dr. Shamooin Hasham Din (“Din”) a member of the College of Physicians and Surgeons of Manitoba (the “CPSM”), was charged with professional misconduct, with contravening the Act or a Regulation, the Standards of Practice of Medicine and/or the Code of Ethics, with demonstrating an unfitness to practice medicine and conduct unbecoming a member, as more particularly outlined in a Notice of Inquiry dated September 17, 2021;

AND WHEREAS Dr. Din was summoned and appeared before an Inquiry Panel (the “Panel”) of the CPSM with legal counsel on January 31, 2022 for the purpose of conducting an inquiry pursuant to Part 8 of the Act into the allegations against Dr. Din as set out in the Notice of Inquiry;

AND WHEREAS an inquiry proceeded before the Panel on January 31 and February 1, 2022, by video conference, in the presence of Dr. Din and his counsel, and in the presence of counsel for the Complaints Investigation Committee of the CPSM, and counsel for the Panel;

AND WHEREAS and Amended Notice of Inquiry dated September 17, 2021, outlining the charges and particularizing the allegations against Dr. Din, was filed as an Exhibit before the Panel;

AND WHEREAS Dr. Din entered a plea of not guilty to counts 4 and 5 of the charges outlined in the Amended Notice of Inquiry and a plea of guilty to counts 1, 2 and 3 of the said charges;

AND WHEREAS Dr. Din admitted to all of the particulars of counts 1 to 4 as set out in the Amended Notice of Inquiry;

AND WHEREAS counsel for the Investigation Committee for the CPSM made a motion pursuant to section 122(2)(b) for an order protecting the identity of all patients and third parties who may be referred to in the proceedings or in any of the Exhibits filed and Dr. Din, through his counsel, consented to the motion

AND WHEREAS the Panel heard *viva voce* evidence from various witnesses and various other exhibits were received into evidence;

AND WHEREAS following completion of the evidence portion of the Inquiry, the Panel received oral submissions to the Panel;

AND WHEREAS the Panel has considered the evidence introduced at the Inquiry and has considered the oral submissions of the parties and the authorities that have been provided to the Panel;

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

1. Pursuant to subsection 122(2)(b) of the Act, there shall be no disclosure of the names or other identifying information of any patients or other third parties referred to in the proceedings or in any of the exhibits in the proceedings.
2. Pursuant to subsection 124(2)(a),(b) and (h) of the Act, Dr. Din is guilty of committing acts of professional misconduct, contravened the Code of Ethics, contravened the Practice of Medicine Regulation, and is guilty of conduct unbecoming a member by breaching undertakings given to the CPSM on July 30, 2019 and orders imposed by an Inquiry Panel on September 12, 2018, as particularized in Count 1.1 to 1.5 of the Amended Notice of Inquiry.
3. Pursuant to subsection 124(2)(b) of the Act, Dr. Din is guilty of contravening the Code of Ethics of the CPSM by creating false and misleading medical records related to the presence of a chaperone for 36 female patients to whom Dr. Din

provided care, as particularized in Count 2.1 and 2.2 of the Amended Notice of Inquiry.

4. Pursuant to subsection 124(2)(b) of the Act, Dr. Din has contravened the Practice of Medicine Regulation and has contravened the Code of Ethics of the CPSM by practicing beyond the boundaries of his certificate of practice in Family Medicine, which excluded providing medical care to paediatric patients.
5. Pursuant to subsection 124(2)(b) of the Act, Dr. Din has contravened the Code of Ethics of the CPSM, in particular Part B and the Commitment to the well-being of the Patient, by failing to maintain professional boundaries, as particularized in Count 4.1 to 4.6 of the Amended Notice of Inquiry.
6. Pursuant to subsection 124(2)(e) of the Act, Dr. Din has demonstrated he is unfit to practice medicine by displaying an unwillingness or inability to be governed by the CPSM.
7. A further hearing before this Panel will be convened as soon as reasonably practical for the purpose of receiving the parties' evidence and submissions with respect to the order or orders which should be issued by the Panel pursuant to sections 126 and 127 of the Act.

DATED this 10th day of March, 2022.