IN THE MATTER OF:	*The Regulated Health Professions Act,* C.C.S.M., c. R117, Part 8
AND IN THE MATTER OF:	DR. MANFRED ZIESMANN a Registrant of the College of Physicians and Surgeons of Manitoba
AND IN THE MATTER OF:	an Amended Notice of Inquiry dated March 4, 2025

INQUIRY PANEL:

Dr. Anthony Herd, Chairperson

Dr. Munir Ahmed

Diana Yelland, Public Representative

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

1. On March 11, 2025, a hearing was convened 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. Manfred Ziesmann ("Dr. Ziesmann"), a registrant of the CPSM, as set forth in an Amended Notice of Inquiry dated March 4, 2025.

2. The Amended Notice of Inquiry charges Dr. Ziesmann with professional misconduct, with contravening the Code of Ethics, CPSM by-laws, the Standards of Practice of Medicine, and practice directions, with displaying a lack of skill, knowledge, and judgment in the practice of medicine and with demonstrating an incapacity or unfitness to practice medicine.

3. Among other things, the Amended Notice of Inquiry alleges:

(a) In respect of his care of Patient 1, which involved five surgical procedures performed between 2012 and 2022, Dr. Ziesmann contravened the CPSM By-laws, the Standards of Practice of Medicine and/or displayed a lack of knowledge, skill, and judgment in the practice of medicine, as at times throughout his involvement in Patient 1's care having regard to the procedures, he did not fully document informed consent discussions, and at times management plans could have been more thoroughly documented in the patient record.

(b) Between on or about January 28, 2021 and May 16, 2022, respecting his care of Patient 2 and a surgical procedure he performed on April 1, 2022, Dr. Ziesmann contravened the Standards of Practice of Medicine and the Code of Ethics, and/or committed acts of professional misconduct, and/or

displayed a lack of knowledge, skill, and judgment in the practice of medicine.

(c) In respect of his care of Patient 3, which involved two surgical procedures performed on April 4 and August 8, 2023, Dr. Ziesmann contravened the Standards of Practice of Medicine and the Code of Ethics, and/or displayed a lack of knowledge, skill, and judgment having regard to the April 4, 2023 procedure and displayed a lack of knowledge, skill and judgment in the practice of medicine having regard to the August 8, 2023 procedure.

4. The Amended Notice of Inquiry also contained factual particulars with respect to allegations in the charges.

5. The hearing proceeded in the presence of Dr. Ziesmann, his legal counsel, and in the presence of counsel for the Complaints Investigation Committee of the CPSM (herein the “CPSM”). Dr. Ziesmann admitted his membership in the CPSM and confirmed that the Panel had jurisdiction over the matters at issue. Dr. Ziesmann also acknowledged service upon him of the Amended Notice of Inquiry.

6. At the commencement of the hearing, counsel for the CPSM made a motion pursuant subsection to 122(2)(b) 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. Ziesmann. 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 and other third parties being made public, granted the order.

GUILTY PLEA AND JOINT RECOMMENDATION

7. Dr. Ziesmann waived the reading of the Amended Notice of Inquiry and entered a plea of guilty to the charges as set out in the Amended Notice of Inquiry. 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.

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

(a) Amended Notice of Inquiry dated March 4, 2025 (Exhibit 1);

(b) Statement of Agreed Facts (Exhibit 2);

(c) Book of Agreed Documents (Exhibit 3); and

(d) Joint Recommendation (Exhibit 4).

9. The Panel has considered the guilty plea of Dr. Ziesmann having regard to the exhibits, the evidence and admissions contained therein, and the submissions of counsel for the CPSM and counsel for Dr. Ziesmann. The Panel is satisfied all of the charges set forth in the Amended Notice of Inquiry and the particulars contained therein have been proven on a balance of probabilities.

10. The CPSM and Dr. Ziesmann proceeded by way of a Joint Recommendation as to the disposition of this matter as follows:

- An Order reprimanding Dr. Ziesmann pursuant to subsection 126(1)(a) of the Act;
- An Order that Dr. Ziesmann will be suspended from the practice of medicine for a fixed period of six weeks, commencing March 24, 2025, pursuant to subsection 126(1)(b) of the Act;
- An Order that Dr. Ziesmann's entitlement to practice medicine will be limited in accordance with terms and conditions as set out in an Agreement and Undertaking to be executed by Dr. Ziesmann, pursuant to section 126(1)(f)[1];
- An Order that Dr. Ziesmann will pay the costs incurred by the CPSM to monitor compliance with the Agreement and Undertaking, pursuant to section 126(5);

[1] The terms and conditions of the Agreement and Undertaking is attached to this Decision at Schedule A.

- An Order that Dr. Ziesmann pay to the CPSM costs in the amount of $34,285.70 pursuant to subsection 127(1)(a), to be paid in full on or before August 31, 2025.

11. The Panel is satisfied the Joint Recommendation is sound and appropriate and is accepted. The Panel's specific reasons for its decision are as follows.

EVIDENCE

Prior History

12. Dr. Ziesmann registered with the CPSM on July 1, 1981. He has been licenced as a plastic surgeon since 1987, having been certified in 1986.

13. The Panel was informed of six prior complaints/matters in which he was criticized and/or provided with advice or reminders regarding: obtaining informed consent from patients; his level of vigilance and attentiveness in following patients and monitoring for post-operative complications; and/or the accuracy and completeness of clinical documentation.

Prior Undertakings

14. As a result of Investigation IC2837, Dr. Ziesmann executed an undertaking signed on December 18, 2017, wherein he undertook to attend a record-keeping course, which was completed.

15. As a result of Investigation IC3881, Dr. Ziesmann gave an undertaking to complete a self-directed learning program at the University of Manitoba College of Medicine for the purpose of improving his communication with patients and his ability to convey empathy and concern in addition to improving his communication skills as they related to understanding and addressing patient expectations. This was completed in July 2020.

16. As a result of a pattern of practice investigation IC860, Dr. Ziesmann gave an undertaking on April 2, 2024 that included:

(a) a commitment to provide good medical care to his patients in accordance with the prevailing standards of practice;

(b) a commitment to ensure that Dr. Ziesmann personally saw patients in a timely way or will assist, to the best of his ability, with alternate arrangements for continuity of care when clinically significant deviations from the expected clinical course occur in respect to post-operative management of his patients; and

(c) a requirement that he have a practice monitor in place and will meet on a monthly basis with the practice monitor, with the monitor having the requirement to review the care provided by Dr. Ziesmann and report to the CPSM.

17. In addition to the foregoing undertaking, at the time of the hearing, Dr. Ziesmann was also subject to certain interim conditions on his practice.

Present Matters

Investigation IC7907

18. Patient 1 initially raised concerns respecting breast augmentation surgery performed by Dr. Ziesmann in July 2012. She then raised further concerns about subsequent surgeries performed by Dr. Ziesmann. A summary of the five surgical procedures Dr. Ziesmann performed on Patient 1 between 2012 and 2022 is as follows:

(a) July 9, 2012, breast augmentation, one month post-operatively Patient 1 and Dr. Ziesmann dealt with a stitch abscess;

(b) March 24, 2014, panniculectomy, reduction of an umbilical hernia and left breast scar revision, following which Patient 1 experienced issues with wound healing and scarring;

(c) June 1, 2015, abdominal scar revision surgery, which was complicated post-operatively by issues with wound healing and a retained surgical drain;

(d) June 21, 2019, excision of abdominal seroma and flap closure, revision of breast scars, and liposuction for removal of lipoma on her neck, which was complicated post-operatively by issues with wound healing; and

(e) March 11, 2022, excision of an abdominal seroma.

19. In responding to the Investigator's Report, Dr. Ziesmann noted:

> Finally, it appears to be a theme throughout the report that Patient 1 had multiple risk factors that put her at a higher risk for complications of infection and delayed healing, and that the applicable risk/benefit analysis based on her circumstances are not documented. Although this may not be specifically highlighted in some of my chart notes, it is my practice with all of my patients, including those undergoing cosmetic procedures, to discuss the risk and potential complications associated with each procedure and with surgery in general, allow the patient time to consider their options, and ultimately obtain informed consent before proceeding. If a patient has higher risk factors, I also ensure that I discuss those with the patient, including the impact those may have on the procedure or the patient's recovery from it. In Patient 1's case, she would have been advised of the risks and potential complications associated with each procedure and the course of recovery and informed consent was obtained for each of her procedures.

Investigation IC7296

20. Patient 2 requested surgery from Dr. Ziesmann in 2021 to address breast and areola asymmetry that had developed over time following surgery, carried out by a different surgeon, to address breast asymmetry in 2013.

21. On April 1, 2022, Patient 2 underwent bi-lateral breast surgery, which involved Dr. Ziesmann adding left and right breast implants, as well as other revisions. Patient 2's post-operative recovery was complicated by necrosis of the nipple and areola.

Pre-Surgery

22. Patient 2 was first seen on January 28, 2021 at which point a surgical plan was determined to address asymmetry of the breasts. In particular, the right breast, which

had an implant, was larger than the left, which had no implant. It was also noted “nipples too high” and “areolas too large”.

23. She was subsequently seen on April 14, 2021, March 14, 2022 (by Dr. Ziesmann’s nurse), and March 16, 2022. During the March 14, 2022 with the nurse, Patient 2 elected to have a 490 cc high profile extra fill implant for each side. In response to the investigation, Dr. Ziesmann noted, however, that due to the size discrepancy, it was elected to use a 440 cc high profile extra fill on one side and a 490 cc high profile extra fill on the other side.

24. There is no discussion about implant size in the chart notes for January 28, 2021, April 14, 2021 or March 16, 2022.

25. On the day of the surgery, Patient 2 signed a consent indicating insertion of a larger implant in the right breast (490 cc) and a smaller implant in the left (440 cc). The name and style of the implant was omitted.

26. During the course of surgery, Dr. Ziesmann inserted the larger implant into the left breast and the smaller implant into the right breast contrary to the consent form.

Post Surgery

27. The evidence before the Panel was that Patient 2 an increased risk of necrosis due to blood flow issues as a result of her prior mastopexy surgeries. Dr. Ziesmann acknowledged the risk and stated that risk was discussed with the patient. However, he acknowledges that he did not meet the expected standard to obtain an adequate informed consent having regard to all material risks of the procedure carried out.

28. Patient 2 experienced significant issues post-surgery, requiring numerous attendances before Dr. Ziesmann, urgent care clinics, and an attendance at Hospital A emergency. Patient 2 was referred to the plastic surgeon resident on call, whose consultation report noted the following:

> …Patient had surgery with Dr. Ziesmann on April 1st. States she had bilateral breast implants placed, and a lift performed.

> 490 cc placed on left, and 440 cc placed on right. Silicone implants. She states she has had a hard time seeing Dr. Ziesmann back following surgery, and feels that her concerns have been disregarded. She was seen at [Hospital B] yesterday and sent to see me.
>
> …Bilateral breasts examined. Complete necrosis of NAC on both sides with thick, black eschar. Looks to have dehiscence of entire vertical limb on both sides. Open area is about 15 x 15 cm on both sides. No obvious implant exposure. Thick, black scab over vertical limb as well. This may be simply non-viable fat, rather than loss of skin on the breast. No obvious infection appreciated.
>
> Bilateral Breast NAC Necrosis and Wound Dehiscence.
>
> - Advised patient that this is a significant problem. Likely will require implant removal, removal of the NAC, and closure of the wound given extent…

29. On May 17, 2022, a new surgeon performed debridement of the necrotic fat and breast tissue. He removed the breast implants and debrided skin.

Investigation IC8932

30. Patient 3 had excessive sun damage to her skin. She was diagnosed by her dermatologist with basal cell carcinoma through a shave biopsy taken on January 27, 2023 and referred to Dr. Ziesmann for excision of the lesion.

31. Patient 3 was seen by Dr. Ziesmann for the first excision procedure on April 4, 2023.

32. A pathology report after the procedure noted that the lesion that was excised did not have a definite scar reflecting a prior biopsy site and advised that clinical correlation was required to ensure that the excision corresponded to the site of the prior biopsy.

33. Following a further referral by Patient 3's dermatologist, Patient 3 had a second excision procedure, which occurred on August 8, 2023. Despite this second excision, the dermatologist still noted basal cell carcinoma to be present and a referral for a third procedure was made to a different surgeon.

ANALYSIS

Count 1/IC7907/Patient 1

34. Dr. Ziesmann has admitted to contravening the CPSM By-laws, the Standards of Practice of Medicine, and has displayed a lack of knowledge, skill and judgment in the practice of medicine by failing to fully document informed consent discussions and by failing to more thoroughly document management plans.

35. The importance of an adequate patient record was confirmed by the Manitoba Court of Appeal in *Ahluwalia v. College of Physicians and Surgeons*, 2017 MBCA 15, wherein the Court cited with approval the finding of the Inquiry Panel that record keeping is "concerned with proper medical practice and patient care, and not merely managerial or administrative functions".

36. Dr. Ziesmann's conduct having regard to Patient 1 spanned 10 years and was in breach of the various Standards of Practice in effect over that time having regard to the requirement to keep detailed and accurate patient records[2].

37. Dr. Ziesmann had a professional obligation to document on the patient record the medical care given to the patient, containing enough information for another member to be sufficiently informed of the care provided[3]. In order to provide "good medical care" as required in the *College of Physicians and Surgeons of Manitoba Standards of Practice Regulation* (the "Regulation") and the Standards of Practice, Dr. Ziesmann was required to undertake sufficient communication with Patient 1 about her condition, the nature of the treatment, and an explanation of the evidence-based and conventional treatment options, including material risks, benefits and efficacy of the options in order to enable informed decision-making by the patient[4]. As part of this obligation, he was required to document on the patient record that this took place. In this, Dr. Ziesmann failed.

[2] By-law No. 1 effective Dec. 1, 2008, section 24.1; By-law No. 11 effective Dec. 14, 2015, section 27
[3] By-law No. 11, section 27(2)
[4] By-law No. 11, section 2(1)

Count 2/ IC7907/Patient 2

38. Dr. Ziesmann has admitted he breached the Standards of Practice of Medicine and the Code of Ethics, committed acts of professional misconduct and displayed a lack of knowledge, skill and judgment in the practice of medicine having regard to his care of Patient 2 by:

(a) Failing to collect pertinent information about the surgical care provided by a previous surgeon thereby not having the patient's full relevant history;

(b) Failing to obtain adequate informed consent having regard to the material risks of the procedure to be undertaken;

(c) Inserting implants that was contrary to what had been consented to by the patient prior to surgery;

(d) Failing to address symptoms of necrosis in a timely and appropriate manner while displaying a lack of empathy and compassion in communicating and interacting with Patient 2; and

(e) Failing to adhere to the CPSM standard for documentation.

39. The Canadian Medical Association *Code of Ethics and Professionalism* articulates the ethical and professional commitments and responsibilities of the medical profession. Part B – *Fundamental Commitments of the Medical Profession* provides:

> Commitment to the well-being of the patient
>
> - 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.

40. Dr. Ziesmann failed to properly carry out this ethical duty.

41. The failures to obtain and record significant prior history and obtain and record informed consent by Dr. Ziesman is a breach of the relevant Standards of Practice.[5] Dr. Ziesmann simply failed to provide the requisite good medical care to Patient 2.

Count 3/IC8932/Patient 3

42. Dr. Ziesmann has acknowledged that he failed to appropriately address the April 14, 2023 pathology report which indicated that the procedure may not have been successful. Dr. Ziesmann also acknowledged the importance of a heightened degree of cared and vigilance for the second procedure, particularly given the first procedure was not successful. Finally, Dr. Ziesmann has acknowledged that he did not document sufficient steps to identify the lesion on August 8, 2023.

43. In respect of his care of Patient 3, Dr. Ziesmann acknowledges he contravened the Standards of Practice of Medicine and the Code of Ethics while also displaying a lack of knowledge, skill, and judgment when he failed to appropriately address the April 14, 2023 pathology report.

44. Dr. Ziesmann also acknowledges he did not document sufficient steps to identify the lesion on August 8, 2023, and further investigation could have been done by

[5] Standards of Practice, effective Jan. 1, 2019

him to adequately identify the lesion of concern on this date, representing a lack of knowledge, skill, and judgment.

45. The applicable Standards of Practice for good medical care required as follows:

> Follow-up and Diagnosis and Test Results
>
> 2.2 A member who orders a diagnostic test or makes a referral to another health care professional must have a system in place to review the test results and the results of referrals to other health care professionals and have reasonable arrangements in place to follow-up with the patient when necessary.
>
> 2.3 A member who orders a diagnostic test and directs a copy of the results to another member remains responsible for any follow-up care required, unless the member to whom a copy of the results is directed has agreed to accept responsibility for the patient's follow up care.

46. This standard was simply not followed.

47. Dr. Ziesmann's actions with respect to Patient 3 was also, once again, in violation of the Code of Ethics by failing to be committed to the well-being of the patient.

48. The Panel accepts the admissions of Dr. Ziesmann and are satisfied the allegations set out in the Amended Notice of Inquiry have been established. It therefore makes the necessary order in accordance with section 124(2) of the Act.

THE JOINT RECOMMENDATION

49. The primary purpose of the Act is the protection of the public. As noted by the Court of Appeal in *Kuny v. College of Registered Nurses*, 2017 MBCA 111, it follows that the fundamental purpose of sentencing for professional misconduct is also to ensure that the public is protected from acts of professional misconduct.

50. The Court in *Kuny* went on to note the factors that ought to be considered in determining how the public might best be protected[6]. In particular, the Court of Appeal found:

> The factors which ought to be taken into account in determining how the public might best be protected, include specific deterrence of the member, general deterrence of other members of the profession, rehabilitation of the offending member, punishment of the offending member, isolation of the offending member, the denunciation by society of the conduct, the need to maintain the public's confidence in the integrity of the profession's ability to properly supervise the conduct of its members and assuring that there is no disparity with penalties imposed in other cases. These principles, plus the presence or absence of any mitigating circumstances, are the principles to be applied in determining the appropriate penalty.

51. The Panel was provided with case law from both parties as well as received their oral submissions to the effect that the sanction being recommended is consistent with those imposed on health care professionals in other similar cases, appreciating that no two cases are ever the same.

52. The Panel also received a written impact statement from Patient 3 and heard directly from Patient 2. The Panel was particularly struck by how the actions of Dr. Ziesmann have had such a negative impact on the health and well-being of Patient 2. She has suffered significantly over the last few years and there is little doubt that she will continue to be impacted for years to come.

53. The primary purpose of Orders made under section 126 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.

54. A joint submission on penalty must satisfy the fundamental penalty principles. The penalty should express the Panel’s denunciation of the misconduct and

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[6] at para 78

act as a deterrent, both to the member and to the profession. The penalty should also be proportionate to the misconduct. See *College of Physicians and Surgeons of Ontario v. Khan*, 2021 ONCPSD 32.

55. It is a well established point of law that a Panel should not depart from a Joint Recommendation unless the proposed recommendation would bring the administration into disrepute or is otherwise contrary to the public interest, see *R. v. Anthony-Cook*, 2016 SCC 43[7]. This is an exceptionally high bar and an Inquiry Panel should only consider departing from a joint recommendation in the most exceptional circumstances.

56. Having considered the evidence, the case law, the impact statements, and submissions of counsel, the Panel is of the view that the objectives and purpose of an Order under section 126 is satisfied by the Joint Recommendation and therefore accepts the recommendation, in that:

(a) An order of reprimand pursuant to subsection 126(1)(a) of the Act is a formal denunciation of Dr. Ziesmann's misconduct;

(b) An order of suspension from the practice of medicine for a period of six weeks pursuant to subsection 126(1)(b) is among the most serious of penalties. The facts of this matter, as set out in detail above, support a serious penalty;

(c) An order that Dr. Ziesmann's entitlement to practice medicine will be limited in accordance with detailed and lengthy terms and conditions (Schedule A) detailed in the Agreement and Undertaking, pursuant to subsection 126(1)(f), reassures the public that a return to practice will be limited and monitored with a view to maintaining professional standards and public safety;

[7] See also, *College of Physicians and Surgeons of Ontario v Alexander*, 2022 ONPSDT 41

(d) The Joint Recommendation acts not only as a specific deterrent to Dr. Ziesmann but also as a general deterrent in that it imposes serious punishment for serious misconduct, which serves as a warning and education to the public and other physicians as to the consequences of such misconduct;

(e) The Joint Recommendation also imposes a significant financial consequence against Dr. Ziesmann by being responsible for costs related to the investigation, the inquiry, and monitoring compliance with the Agreement and Undertaking; and

(f) The Joint Recommendation agreed to by Dr. Ziesmann reflects his acceptance of his guilt in these matters, which spared the CPSM the expense of a full inquiry and, more importantly, spared the patients who have been affected by his conduct the distress and invasion of privacy that appearing before the panel to testify would have involved.

CONCLUSION

57. The Joint Recommendation made by the CPSM and by Dr. Ziesmann is accepted. The Panel hereby issues an Order, as more particularly set forth in the Resolution and Order issued concurrently herewith.

DATED this 25th day of May, 2025.