

IN THE MATTER OF *THE PARAMEDICS ACT* AND BYLAWS AND IN THE MATTER OF
A COMPLAINT AGAINST HENRY DALE SOLES

DECISION

Discipline Committee of the Saskatchewan College of Paramedics

Discipline Committee Members:

Don Brickner, EMT-Paramedic, Chair
Danae Ackles, EMT-Paramedic, Member
Jamie Struthers, Q.C., Public Representative, Member

Legal Counsel for the Discipline Committee:

Merrilee Rasmussen Q.C.

INTRODUCTION:

[1] The hearing by the Discipline Committee of the Saskatchewan College of Paramedics (the “College”) into the complaints against Henry Dale Soles, a member of the College, was convened in the Windsor Room at the Travelodge South, 4177 Albert Street, Regina, Saskatchewan, at 8:30 a.m. on September 29, 2010, being the location, time and date specified in the Notice of Hearing served on Mr. Soles and validated pursuant to the Order of Mr. Justice Whitmore of the Saskatchewan Court of Queen’s Bench, Judicial Centre of Regina, dated September 21, 2010.

[2] Mr. Soles was not present at the hearing, and the hearing proceeded in his absence in accordance with subsection 30(11) of *The Paramedics Act*, proof of service of the notice of hearing having been established. Roger Lepage Q.C. and Lisa Renner were present representing the College’s Professional Conduct Committee (the “PCC”).

THE FORMAL COMPLAINT:

[3] The notice served on Mr. Soles contained the following charges:

Charge Number 1

You, Henry Dale Soles, are alleged to be guilty of professional misconduct contrary to sections 25(a), (b) and (c) of *The Paramedics Act* in that you:

On or about January 3, 2010, did forge the name of [REDACTED] in five different locations on the CME Reporting Form which you submitted with your application for licence renewal for 2010;

Charge Number 2

You, Henry Dale Soles, are alleged to be guilty of professional misconduct contrary to sections 25(a), (b) and (c) of *The Paramedics Act* in that you:

did attempt to obtain a licence to practice as an EMT in Saskatchewan by fraudulent means in that you did submit a CME Reporting Form with your application for licence renewal which purported to confirm that you had completed CME requirements for licensure when, in fact, the signatures confirming completion of the requirements were forged;

Charge Number 3

You, Henry Dale Soles, are alleged to be guilty of professional misconduct contrary to sections 25(a), (b) and (c) of *The Paramedics Act* in that you:

Did deliberately mislead the College when, on or about January 11, 2010, you were asked by [REDACTED], Administrative Assistant for the College, to provide the final signature of a coordinator for your CME and you did maintain that [REDACTED] had signed your CME Reporting Form when, in fact, she had not signed it.

FACTS:

[4] At the outset of the hearing, a binder of documents was filed with the Discipline Committee as an exhibit by counsel for the PCC, which contained the Notice of Formal Complaint (including the notice of hearing), Affidavit of Lily Stonehouse, Executive Director of the College, dated August 26, 2010, Affidavit of [REDACTED], an Emergency Medical Technician, dated August 23, 2010, Affidavit of [REDACTED], administrative assistant with the College, dated August 25, 2010, and the Order of Mr. Justice Whitmore, already referred to, and the documents submitted to the Court to obtain that Order.

[5] From the various affidavits filed, the following facts were established:

1. On January 7, 2010 the College received Mr. Soles' application for renewal of his licence to practice as an EMT, including a form called "Continuing Medical Education (CME) Reporting Form for 2010".

2. On January 9, 2010 [REDACTED] called Mr. Soles to ask him to provide a missing signature and asked him who had signed as the assessor certifying as to his proficiency in the skills noted on the form. He advised [REDACTED] that [REDACTED] had signed his CME form.

3. On January 11, 2010 Ms Stonehouse spoke to [REDACTED] by phone. [REDACTED] said that she had not signed Mr. Soles' CME form. [REDACTED] submitted a complaint to the College, which was received on January 15, 2010.

4. On January 18, 2010 Ms Stonehouse sent a letter to Mr. Soles advising him of [REDACTED] complaint and asking for his response. While Ms Stonehouse did not receive any response to the complaint, she did receive an email from him indicating that he would not be completing his licence renewal for 2010.

5. Mr. Soles did not respond to any further communications from the College by telephone, mail and email, nor did he respond to any communications from counsel for the PCC, nor could he be found to be personally served with the notice of hearing, with the result that an application had to be made to the Court to provide for substitutional service.

ANALYSIS AND DECISION:

[6] The powers of the Discipline Committee can only be exercised where it makes a finding that a member is guilty of professional misconduct or professional incompetence.¹ In this case it is alleged that Mr. Soles is guilty of three charges: 1) that he forged the CME form by affixing [REDACTED] signature to it; 2) that he attempted to obtain his licence to practice for 2010 by fraudulent means by submitting a forged document; and 3) that he deliberately misled the college by advising [REDACTED] that [REDACTED] had signed his CME form.

[7] Black's Law Dictionary defines "forgery" as "the act of fraudulently making a false document or altering a real one to be genuine". In this case, while it is clear that [REDACTED] did not affix her signature to Mr. Soles' CME form, there is no evidence concerning who did. For that reason, the Committee finds that Mr. Soles is not guilty of Charge Number 1.

[8] However, with respect to Charge Number 2 and Charge Number 3, the evidence establishes that Mr. Soles submitted a document to the College that he knew or ought to have known was false, with the intention that the College would rely on that document to issue him a licence to practice for 2010. In addition, when he spoke to [REDACTED] he led her to believe that [REDACTED] had signed his CME form when he knew or ought to have known that this was not true. The Committee therefore finds Mr. Soles guilty of Charge Number 2 and Charge Number 3 for the reason that attempting to induce his professional regulatory body to licence him on the basis of information that was not true is professional misconduct within the meaning of section 25 of *The Paramedics Act*.

[9] Counsel for the PCC submits that, taking into account the sentencing principles applicable to cases of professional discipline as established in various court decisions, including the over-arching purpose of public protection,² and taking into account the relevant considerations for achieving public protection, including deterrence, rehabilitation, maintenance

¹Subsection 31(1) of *The Paramedics Act*.

²See *McKee v. College of Psychologists (British Columbia)*, [1994] 9 W.W.R. 374

of public confidence in the profession, and consistency,³ as well as the specific factors that should be taken into account⁴ and any applicable mitigating factors,⁵ the appropriate penalty to be imposed in this case is expulsion and costs.

[10] Counsel referred the Discipline Committee to a number of professional discipline cases involving other professions where forgery was at issue. In the case of *Re Klein*⁶ an investment dealer was disciplined for using an access code to look at the accounts and trading activity of other investment advisors and signing a client's signature without the client's knowledge or consent. In that case, Klein agreed to pay fines of \$15,000 and \$25,000 on each count, was suspended for two years, was subject to one year of supervision at the end of his suspension, had to re-write and pass an exam, and had to pay \$1,000 towards the costs of the discipline proceeding. In the case of *British Columbia School District No. 39 (Vancouver) and Vancouver Teachers' Federation (Stassinopoulos Grievances)*,⁷ a teacher who forged the name of the principal of his school on a letter written to enable a group of students to receive discounts for entry fees to museums while on a trip to Greece was suspended for two weeks. The suspension would have been longer, but the arbitrator took into account the teacher's youth and inexperience and that he was not motivated by personal gain and believed he was serving the interests of his students. In another case involving an investment dealer, *Re Blaker*,⁸ the investment dealer was permanently prohibited from registration in any capacity with the Association for forging signatures on client account documents. In the case of *Oledzki v. The Law Society of Saskatchewan*,⁹ a lawyer was disbarred for forging the signature of a client on a will.

[11] The Discipline Committee is of the opinion that these cases do not apply because they relate to an appropriate penalty in relation to a finding of guilt for forgery, and the Committee has concluded that it has no evidence that Mr. Soles was the one who forged the CME form. However, counsel for the PCC also submitted cases relating to misrepresentation of credentials for the Discipline Committee's consideration. In the case of *Ontario College of Teachers v. Racicot*¹⁰ a teacher obtained her Bachelor of Education degree from the University of Ottawa on the representation that she had completed her Bachelor of Arts degree, when she had not. After the University of Ottawa discovered this she gained admission to the University of Western

³See Casey, *The Regulation of Professions in Canada*, loose leaf (Carswell), s. 14-2.

⁴*Jaswal v. Medical Board (Newfoundland)* (1992) 42 Admin. L. R. (2d) 233.

⁵Casey, *supra*, at note 2.

⁶[2005] I.D.A.C.D. No. 6.

⁷[1996] B.C.C.A.A.A.No. 543.

⁸[2007] 1.D.A.C.D. No 15.

⁹2010 SKCA 120.

¹⁰2001 LNONCTD 22.

Ontario, again by providing false information that she had obtained her Bachelor of Arts degree. She was found to have misrepresented her credentials and obtaining employment as a teacher as a result and her registration was revoked. In the case of *Re Noster*¹¹ the Alberta Labour Relations Board upheld a union's decision to deny membership to a person who presented application documents containing a number of forged signatures.

[12] The Discipline Committee acknowledges that the primary purpose of sentencing in relation to a professional discipline offence is protection of the public. In this case, while there is no direct risk to the general public in relation to the provision of the professional services provided by Mr. Soles, it is nevertheless a matter of concern that he would provide false and misleading information to his profession for the purposes of obtaining a licence to practice. The Discipline Committee is also concerned with Mr. Soles' failure to acknowledge and take responsibility for his actions, apparently under the misapprehension that if he abandoned his application for renewal of his licence for 2010 that that would be the end of the matter. While in one sense Mr. Soles has voluntarily suspended himself, it is important that he and other members of the profession be aware that the failure to act responsibly has consequences and that the decisions about his future in the profession are not his alone to make.

[13] The Discipline Committee is also aware of cases of professional discipline in which similar types of offences have met with a range of sentencing responses:

- In *Re Ivens*¹² a lawyer who counselled another lawyer to falsely hold himself out as a Justice of the Peace was given a reprimand;
- In *Hynes v. Swartz*¹³ an architect who permitted the unwarranted use of a seal thus allowing a drawing to be improperly certified was given a reprimand;
- In *Adamo v. College of Physicians & Surgeons (Ontario)*¹⁴ a medical doctor who falsified records, among other things, was given a reprimand and ordered to complete a medical ethics course;
- In *Shpak v. Institute of Chartered Accountants (British Columbia)*¹⁵ an accountant who falsified the audit report of a publicly traded company was given a \$10,000 fine;
- In *Coffrey v. College of Licensed Practical Nurses (Manitoba)*¹⁶ a nurse who impugned the integrity of the College by spreading false information about staff salaries was reprimanded and ordered to pay costs;

¹¹[2006] Alta. L.R.B.R. 51.

¹²(1979), 10 B.C.L.R.P-15.

¹³(1938), 1 D.L.R. 509.

¹⁴(2007), 223 O.A.C. 175.

¹⁵[2002] B.C.J. No. 1008.

¹⁶(2008), 291 D.L.R. (4th) 723, leave to appeal refused [2008] S.C.C.A. No. 247.

- In *Chopra v. Law Society of Alberta*¹⁷ a lawyer was suspended for 30 days and fined \$3,500 for swearing a false affidavit;
- In *Basu v. College of Physicians & Surgeons (Saskatchewan)(No. 3)*¹⁸ a medical doctor was suspended for 30 days for intentionally misleading another professional body;
- In *Del Core v. College of Pharmacists (Ontario)*¹⁹ a pharmacist who obtained pharmaceuticals from a company by fraud was suspended for 30 days;
- In *Nolan v. Assn. of Land Surveyors (Nova Scotia)*²⁰ a land surveyor who intentionally placed survey markers in the wrong place to mislead a neighbour was suspended for three months;
- In *Ahluwalia v. College of Physicians & Surgeons (Manitoba)*²¹ a medical doctor was suspended for six months for submitting re-written patient charts to the College and presenting them as the originals;
- In *Imrie v. Institute of Chartered Accountants (Ontario)*²² an accountant who signed a Statement of Representation that he knew or should have known was false or misleading was suspended for six months.

[14] In the Committee's review of related cases it would appear that expulsion is not typically ordered in the absence of proof of fraud or forgery on the part of the member. In this case, in the absence of such proof, the Committee is of the view that expulsion is not appropriate. However, the Member's conduct is serious and the penalty imposed must convey that seriousness both to him and to other members of the profession with the objective of providing a measure of deterrence and to provide assurance to the public of the integrity of members of the College. For that reason, the Committee is of the view that a substantial fine and costs are appropriate, together with a reprimand.

ORDER:

[15] On the basis of the above reasons and pursuant to section 31 of *The Paramedics Act*, the Discipline Committee of the Saskatchewan College of Paramedics, having found Henry Dale Soles to be guilty of professional misconduct in relation to Charge Number 2 and Charge Number 3, as outlined in the notice of hearing and set out above, Orders as follows:

¹⁷(1988), 88 A.R. 312.

¹⁸(1985) 46 Sask. R. 88.

¹⁹(1985), 19 D.L.R. (4th) 68.

²⁰(2003), 219 N.S.R. (2d) 318.

²¹(1999), 138 Man. R. (2d) 3, leave to appeal to the Supreme Court of Canada refused (2000), 148 Man. R. (2d) 159.

²²(1972), 28 D.L.R.(3d) 53.

1. Henry Dale Soles is hereby reprimanded; and
2. Henry Dale Soles is suspended from the College until he has paid to the College:
 - (a) a fine in the amount of \$2,500.00; and
 - (b) costs of the investigation and hearing into his conduct in the amount of \$5,000.00.

DATED at Regina, Saskatchewan:

Date

Chair, Discipline Committee
Saskatchewan College of Paramedics

Date

Member, Discipline Committee
Saskatchewan College of Paramedics

Date

Member, Discipline Committee
Saskatchewan College of Paramedics

Date

Member, Discipline Committee
Saskatchewan College of Paramedics

DATED at Regina, Saskatchewan:

Feb 3/2011
Date


Chair, Discipline Committee
Saskatchewan College of Paramedics

Date

Member, Discipline Committee
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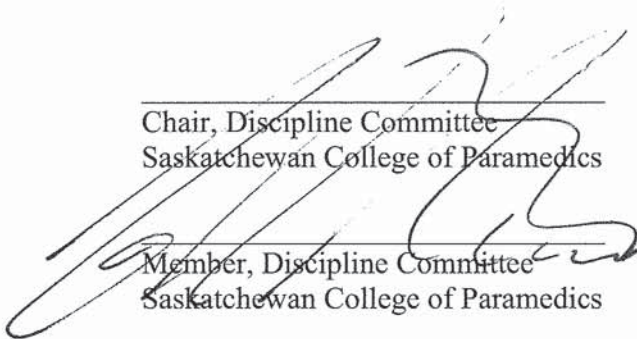
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Feb 8, 2011
Date

Date

Date

Chair, Discipline Committee
Saskatchewan College of Paramedics



Member, Discipline Committee
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DATED at Regina, Saskatchewan:

Date


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Date

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