

Colleges divided over Libya-sponsored students

by Deana Driver

REGINA | A request from the Libyan government to not grant Canadian medical practice licences to some of its citizens has been met with divided

responses from Canadian medical licensing authorities.

While most say they have no legal ability to refuse registration to qualified individuals, others have stated they agree with the Libyan government's

concerns and are treating this as a serious ethical issue.

The Saskatchewan college at its most recent council meeting in late November took a two-pronged approach, deciding it would not withdraw licences

already issued but would study the matter further.

An April 23, 2006, letter to the College of Physicians and Surgeons of Saskatchewan (CPSS) from the Libyan

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Embassy in Ottawa said that Libyan-sponsored doctors who have completed their post-graduate medical education in Canada "have been applying, and obtaining, certificates of registration authorizing independent practice in Saskatchewan." Similar letters were received by the other provincial and territorial licensing authorities, said Bryan Salte, the CPSS's associate registrar.

Obligations to Libya

The letter advises the college that these doctors "signed an agreement with the government of Libya to return to Libya at the end of their training, and their stay for practice in Canada constitutes a breach of their contractual obligations." The letter from Deputy Head of Mission Muftah Nagem said the embassy "consistently insisted

that all Canadian universities offering postgraduate medical training to Libyan-sponsored doctors include in their training agreements a clause stipulating that Libyan doctors are required to return to Libya at the end of their training."

Dr. William Albritton, dean of the medical school at the University of Saskatchewan, said the school has not received a letter from the Libyan embassy, but they would be unwilling to insert such a statement into their contracts with students.

"The College of Medicine would have no ability to enforce anything," he said. "We can put in a clause that says it is our understanding you'll go back, but so what? The colleges of physicians and surgeons across Canada and (Canada) Immigration would have imminent authority to not allow it."

The issue is of more concern

in recent years, as the number of doctors returning to Libya has decreased "at an alarming rate with less than 1% complying with their contractual obligation," Nagem wrote in the April letter. "This year alone, about 27 Libyan-sponsored doctors are expected to complete their post-graduate training in Canada, and we anticipate that a majority will apply for a certificate of registration with Canadian provincial licensing agencies assured that they will easily obtain easily the document."

He states the situation "has caused tremendous prejudice to the Libyan treasury and enormous harm to the Libyan health system," citing an investment of about \$500,000 per Libyan trainee in Canada, not including the previous education these doctors received free in Libya. The embassy said the doctors

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"should not, under any circumstance, be issued certificates of registration by the college for the purpose of independent practice in Saskatchewan."

The embassy asked its legal counsel to look into this issue and "take all legal measures deemed necessary to ensure that Libyan doctors comply fully with the agreement and return home to contribute to the amelioration of the health and well-being of the Libyan people."

A June 30, 2006, letter to the Saskatchewan college from the embassy's legal counsel, Borden Ladner Gervais LLP in Ottawa, reiterated the embassy's instructions to the law firm to explore legal remedies and included attachments listing the names of Libyan-sponsored doctors who had either just completed or were about to complete their medical training in Canada.

Photocopies of Libyan sponsorship agreements signed by some of the doctors were attached, but the translated versions were not received by the Saskatchewan college until after the college council's September meeting, so the matter was not discussed in full until November.

Can't marry a non-Arab

One translated agreement indicates a Libyan doctor agreed to numerous undertakings, including: to "work for the State twofold the period I spent as a sponsored student following my graduation," return to Libya "as soon as I graduate," not to change the field of study or place of study without the Libyan government's consent, not to marry a non-Arab, and not to engage in any offensive or embarrassing behaviour or political activity while abroad. The agreement stipulates that, if the doctor is in violation of any of the stated conditions, the Libyan government has the right to withhold the doctor's sponsorship, require the doctor to return within 30 days of that withholding decision and demand the return of all expenditures and money used during the sponsorship. Otherwise, legal action will be taken against the doctor. A family member or guardian of the student also signed the agreement, stating he would be liable for returning the expenditures should the student renege on the contract.

Breach-of-contract issue

Most of the nine provincial and territorial licensing authorities contacted by the *Medical Post* said they would not refuse licensure based upon this request. Kathryn Clarke, senior communications co-ordinator of the Ontario College of Physicians and Surgeons, was unsure if correspondence had been received from the Libyan embassy but said: "In general practice, the college licenses individuals who meet our requirements and we

are not actively recruiting in that jurisdiction or any jurisdiction; but should a physician apply for a licence here in Ontario and have the qualifications for a licence, then they would be licensed. An individual can have a licence in more than one jurisdiction," she added.

The Alberta college "wouldn't turn anybody down simply because of a request, because that could be seen as discriminatory on our part," said spokeswoman Kelly Eby.

"If they have full qualifications in Canada, our legislation requires us to register them," said Dr. Cameron Little, registrar and CEO of the Nova Scotia college of physicians.

The Yukon Medical Council replied to the embassy in August that the matter did not concern them as they have no physicians in that category, said Dee Balsam, council co-ordinator.

The Quebec college refused comment.

Both Nova Scotia and New Brunswick view the return-in-service agreement as a private contract between the doctor and the Libyan government.

"That's an issue the Libyan government will have to take up in terms of the Canadian courts in recompense or deal with Immigration Canada," said Dr. Little. "It sounds like Immigration Canada can prevent this whole thing from happening. They give them work permits or some sort of residency to stay here."

He added: "We don't ask people . . . about what contracts they have. We get reference letters from the people here in Canada and we want to make sure they have the appropriate qualifications."

Dr. Little suggested the hospitals or regional author-

ities that hire these physicians might be more likely to "ask those questions" about the doctor's contract commitments, but a spokesperson for the Regina Qu'Appelle Health Region in Saskatchewan said that is not standard practice.

The contract breach issue has come up in other contexts, sometimes even within a regional health region. "That happens a lot," said New Brunswick registrar Dr. Ed Schollenberg. "We have physicians who sign contracts in other capacities. There is the traditional view, which I think in some places still holds, that a contract is a contract. It has consequences in terms of that, but a contract doesn't bind a third party. I'm not sure why it would be an ethical issue."

Manitoba and B.C. disagree

Yet that's the take of Manitoba and British Columbia's licensing colleges. In a memo to the Saskatchewan college, Doreen Kelly,

assistant registrar and general counsel of the Manitoba college, said that Manitoba's council "has a policy against registering a physician where registration would enable the breach of a return-in-service agreement, and this would apply in the case of the Libyans. It has rarely been applied in the past, as there have been few circumstances where we knew of the return-of-service agreement."

Dr. Bill Pope, Manitoba's registrar, said the college's council had not yet discussed the matter but the refusal to register a doctor with an outstanding contract is the registrar's policy, which can be overruled by council and appealed.

In the late 1990s, some local and foreign-trained doctors breached informal return-in-service commitments they had requiring them to stay in Manitoba after graduation. "It's fairly common for young graduates to go to other places rather than stay here," said Dr. Pope. "It's

one thing if they offer to buy themselves out. It's another if they just run away from a debt. Because it's related to their agreement to practise, potentially is this an ethical issue? Does it reflect on the credence of the physician and on their practise? If they're prepared to do this, can they be ethical physicians? That's the really big question."

More formal written documentation and return-in-service agreements are now the standard practice across the country, but there is still a loophole for some young foreign-trained doctors who have never practised. They would not have certificates of professional conduct from another jurisdiction and thus an outstanding contract agreement would not necessarily be available for the licensing authority to examine.

If approached for licensure by one of the doctors listed in the Libyan embassy's letter, the Manitoba council would have

to decide whether this was an ethical breach and how the physician intended to deal with their breach, said Dr. Pope. "I can well imagine that if there were a legal challenge, we would have to get further legal advice as to whether in some way we are breaching the law or human rights." In the meantime,

ing return-of-service obligations to Libya have been given a temporary or provisional licence by Saskatchewan's college. One has received full licensure and two have been approved but have not sought licences. In a Nov. 8, 2006, memo to the council, Salte said past situations where physicians leave the province

move to British Columbia "and his credentials were adequate and we approved him for licensing. But when he presented a certificate of conduct of standing, that certificate of conduct actually stated there was a contractual obligation still owing in that other province. Our council at length discussed this and

occurred. The council took this issue very seriously."

Dr. Phillips wondered about a further ethical issue, though, for physicians who left their country to train and have been away for several years studying. "Then you being to wonder what sort of obligation they really have to that country after eight or 10 years of post-graduate training elsewhere. It's a question I think should be asked... If somebody said 'I'm a refugee... The council might look at that. There are always ancillary circumstances that should be taken into consideration, but a straight contractual obligation—council has directed they should not be licensed."

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Manitoba agrees with Saskatchewan that it will not withdraw licensing privileges for the Libyan-trained physicians it has already approved. "It's almost impossible without some sort of ongoing specific professional misconduct to discipline," said Dr. Pope. "To take someone's licence away isn't easy."

Four of the 24 doctors listed in Libya's letter with outstanding

without repaying return-in-service bursaries have been treated as "an issue of civil debt, not as a matter that affects licensure eligibility."

British Columbia's college, however, would require a physician to deal with outstanding contracts prior to receiving licensure, said Dr. Elliott Phillips, deputy registrar. About two years ago, a physician wanted to

considered this was a significant ethical issue and decided that a physician who had a contractual obligation should probably not be provided licensure," he said.

"In fact, (in this case) after significant discussion with the other college, they essentially released his contractual obligation. There really was a lot of discussion back and forth about what should be done when that

No one from the Libyan embassy was available for comment. The *Medical Post* tried to contact some of the Libyan-sponsored doctors staying in Canada; we were only able to reach one who declined to be interviewed.