

# ALLUM CHAMBERS

ATTORNEYS AT LAW

Lionel Luckhoo | Rajiv Persad | John Heath | Lee Merry | Christophe Rodriguez | Susan Kalipersad

Niala Narine | Elena da Silva | Kelston Pope | Devvon Williams | Sonja Gopeesingh- Luckhoo

Michael Xavier | Kimaada Ottley | Larry Boyer | Joash Huggins | Akiri Heath-Adams |

Sheldon Mycoo | Vanita Ramroop | Ajesh Sumessar | Gabrielle Hernandez

**Door Tenant:** Andrew Mitchell QC    **Consultants:** Edward Fitzgerald QC, Sir Keir Starmer QC MP, Paul Taylor QC

18<sup>th</sup> January 2021

**Mr. Martin George**  
**MARTIN ANTHONY GEORGE & CO.**  
**Attorneys-at-Law**  
**#43 Dundonald Street**  
**Cor. Gordon & Dundonald Streets**  
**Port of Spain.**

By email: [officemanagerpos@martingeorge.net](mailto:officemanagerpos@martingeorge.net)

Dear Martin,

**Re: Allegations made against Dr. Avinash Sawh.**

I act on behalf of the Medical Board of Trinidad and Tobago. As you are aware I have been retained by the Council to advise on concerns that you have raised in relation to your client Doctor Avinash Sawh in your letters dated 1<sup>st</sup> December 2020 and the 15<sup>th</sup> December 2020.

We wish to thank you for allowing us the opportunity to consider the concerns and for the Council to receive advice on the matters you have raised. Having received advice, the Council has asked me to write to you in the following terms.

I have advised the Council that I agree with you on one area of concern. I have advised that the dispatching of the letter to your client on the 12<sup>th</sup> of November 2020 without the Council first obtaining the signed complaint forms was premature and such a step should have been completed before the letter was dispatched.

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The Council has accepted this advice. It has long been the customary practice to send to the prospective respondent everything in the possession of the Council that is relevant when any decision is made to begin the inquiry process in relation to any member of the Board.

This of course, is not to suggest for a moment that the Council did not have before them proper valid indications of concern by members of the public and stakeholders in relation to material in the public domain that may or may not impact on a member of the profession.

You will appreciate that as the regulatory body entrusted by the Medical Board Act to deal with the conduct of Medical Practitioners it will come as no surprise to you that members of the public and stakeholders within the health sector would raise issues with the Medical Board of Trinidad and Tobago if there was a perception that a registered member of the Medical Board's conduct appears to fall short of appropriate standards.

You would also no doubt also agree that there is a statutorily provided procedure which has been supplemented over the years by the courts in numerous decisions that mandate that any proceedings relative to the conduct of any medical practitioners must be conducted in a manner that is fair.

That having been said, in relation to the other areas of concern that you have raised in your letters of the 1<sup>st</sup> and the 15<sup>th</sup> December 2020 the Council after receiving advice, respectfully disagrees with your other assertions.

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Firstly, they are unable to agree with your suggestion that the complaint is “utterly invalid, nugatory, irregular and wholly flawed and absolutely incapable of comprising a valid complaint”.

I have also been instructed to indicate that the Council having considered your representations and having received advice wishes to advise that it categorically rejects your suggestion that the flaw (in the complaint process) is so fundamental that it is incurable at this stage”

We note your suggestion that your client will “strenuously object to the Council seeking ex post facto to try to either actively or passively attempt to rectify the lacuna and to seek to close the barn door after the horse has already bolted because this would be a descent into the arena which would taint the whole Council of the Medical Board with a perceived bias and disqualify them from sitting further in the matter”

We applaud the creative construction of your threat, however we wish to point out that your client is of course welcome to take whatever steps he feels he is entitled to do in order to prevent any “rectifying of any lacuna”. We wish to assure you “no horse has bolted” nor has there been any descent into the arena by the Council that even warrants your suggestion of bias.

In terms of your request for clarification on the twenty (20) matters that you have outlined at pages 9-11 of your letter dated 1<sup>st</sup> December 2020 before Dr. Sawh is called upon to answer, the Council is of the view that such a request is quite reasonable and they think common sense will require that they allow the persons who have raised concerns the opportunity to determine whether they wish to present a formal complaint in accordance with our procedures when dealing with concerns being raised by members of the public.

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As regards your concerns about the issue of infamous and disgraceful conduct, the Council thinks that your concerns are at this stage of the process perhaps premature. I wish to assure you that members of the Council have not formed any position as to whether your client's conduct amounts to infamous or disgraceful conduct.

In any event the Council at this stage of the process is only concerned in drawing your client's attention to the material that it has in its possession and which is relevant to the issues raised.

Once your client has had an opportunity to look at the material he will then be entitled to make representations of any concerns to us (as he has done through you) he could choose not to respond, he could dispute the issues being raised or he could accept the material that has been sent to him. As you will well appreciate which option he chooses to adopt will impact on how the Council chooses to move forward if at all.

In your letter dated 15<sup>th</sup> December 2020 you take issue that the Council is sending out letters to persons who have raised concerns relative to Dr. Sawh and enclosing a complaint form and inviting those persons to fill out the complaint form.

The Council is a bit confused by this complaint. On one hand you criticize the Council for not following its own procedure and ensuring that where a concern is raised the person with the concerns attention is drawn to the Board's complaint procedure whereby the person is invited to fill out a form and sign.

Yet in your letter dated 15<sup>th</sup> December 2020 you criticize us when members of staff of the Council purportedly send out the complaint forms to persons who have raised concerns with the Council.

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The Council does not take the view that there is anything at all objectionable in providing persons who have raised concerns with the complaint form for them to exercise their discretion whether they wish to fill out the form and sign it. We reject any suggestion that anyone associated with Council is forcing anyone to fill out the forms and sign them.

In so far as your suggestion that efforts by the Council have been made to contact the young lady in the conversation with Dr. Sawh we wish to put on record that we are strangers to such an allegation, an allegation which I have advised the Council appears to be not only scandalous but potentially defamatory. If you have any proof of this please provide it, the Council is anxious to know the basis for your allegation.

Having regard to the response that we have outlined above I have advised the Council that the most sensible way of dealing with your concerns will be for the Council to withdraw its letter to your client dated 12<sup>th</sup> November 2020. This course of action we think is reasonable as it would allow the Council to determine whether any of the persons who raise complaints/ concerns are willing to formally fill out and sign the complaint form. If that happens that material as well as whatever other material that the Council has before it that is relevant will be submitted to the Council who will consider afresh whether or not an enquiry may be warranted.

Secondly, we think this approach is reasonable as it would allow the Council to gather through the complaint form process information that might be useful to you in answering the twenty (20) questions that you say your client needs clarification on.

The Council has accepted my advice and therefore we wish to advise that they have agreed at their Regular Monthly Meeting for January 2021 to formally withdraw the letter sent to your client dated 12<sup>th</sup> November 2020. Further they will make every effort to have

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the process completed over this month to allow persons who have raised concerns an opportunity to fill out and sign the complaint form should they choose to do so.

Having regard to the urgency of the matter I have also advised the Council that at its next Regular Monthly Meeting in February 2021 it should make a new decision as to whether based on the material before them, they should embark upon an enquiry. Needless to say I have advised them of the options open to them under Section 24 of the Medical Board Act.

I hope this is of assistance, should you require any clarification you are always welcome to give me a call.

Respectfully



Rajiv Persad  
Attorney at Law

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