

**RE: IN THE MATTER OF AN APPEAL PURSUANT TO
S. 45(1) OF THE REGIONAL HEALTH SERVICES ACT, SS 2002, c R-8.2 AND
S. 8(1) OF THE PRACTITIONERS STAFF APPEALS REGULATIONS WITH RESPECT
TO THE DECISION OF THE SASKATOON REGIONAL HEALTH AUTHORITY
(SASKATOON HEALTH REGION), DATED NOVEMBER 26, 2014**

BETWEEN:

DR. SHRAVAN NOSIB

APPELLANT

AND:

THE SASKATOON REGIONAL HEALTH AUTHORITY (SASKATOON HEALTH REGION)

RESPONDENT

DECISION OF THE PRACTITIONER STAFF APPEALS TRIBUNAL

EVERT VAN OLST, Q.C., counsel for the Respondent

MARCUS R. DAVIES, counsel for the Appellant

A. INTRODUCTION

1. This is an appeal by Dr. Shravan Nosib, (the "Appellant"), pursuant to s. 45(1) of *The Regional Health Services Act*, (the "Act"), and s. 8(1) of *The Practitioner Staff Appeals Regulations* with respect to the decision of The Saskatoon Regional Health Authority (Saskatoon Health Region), (the "Board") dated November 26, 2014 pertaining to the application by the Appellant for further privileges in cardiology, specifically, in the Cardiac Catheterization lab at the Royal University Hospital. The Board found that "based on all of the material before it, there is a current appropriate medical human resource staffing component in the lab and the medical human resource plan for the future is reasonable. Thus the recommendation of the Practitioners Advisory Committee, (the "PAC"), is accepted and your application is refused."

2. The Appellant is appealing the decision of the Board on the following grounds:
 - a) The Board failed to appropriately consider evidence provided by the Appellant physician regarding the denial of cardiac catheterization privileges;
 - b) The Board failed to give appropriate weight to evidence before it which indicated that medical privileges were being awarded on the basis of political or administrative expediency, rather than medical need;
 - c) The Board failed to appropriately consider contradictory explanations provided by the division head and others as to why the Appellant's application for privileges was denied; and
 - d) The Board further failed to apply the provisions of *The Saskatchewan Human Rights Code* despite the fact that issues of discrimination were raised by the Appellant physician and were before the Board.
3. The Appellant does not set out the relief requested in the Notice of Appeal, however, the following relief is set out in the written submissions of the Appellant dated November 4, 2015:
 - a) That the Board's decision of November 26, 2014 be quashed in its entirety;
 - b) That the Respondent grant to the Appellant the catheter laboratory / interventionist privileges denied by the Board on November 26, 2014;
 - c) That the appointment shall become effective on the date of issue of the Tribunal decision, unless otherwise agreed upon between the parties; and
 - d) That the Appeal Tribunal retain jurisdiction to address any issues arising from implementation of this decision.

B. JURISDICTION OF THE TRIBUNAL AND NATURE OF THE APPEAL

4. The jurisdiction of this tribunal has been set out in prior decisions and stems from s. 45(1) of the Act which provides:

Section 45(1). A person who is aggrieved by a decision of a regional health authority or an affiliate made in relation to the following matters may, in accordance with the regulations, appeal the decision to a tribunal established by the regulations:

- (a) The appointment of the person to the practitioners staff or the reappointment, suspension or termination of appointment of the person;

- (b) The disciplining of the person as a member of the practitioner staff;
- (c) The granting of privileges to the person as a member of the practitioner staff, or the amending, suspending or revoking of privileges granted to the person.

5. Pursuant to Section 64 of the Act, the Practitioner Staff Appeals Regulations, (the "Regulations"), were enacted which provide, *inter alia*:

Section 8(1). A practitioner who is aggrieved by a decision of a board with respect to a matter set out in subsection 45(1) of the Act may appeal that decision to the tribunal by serving a notice of appeal on the tribunal and a copy of the notice of appeal on the respondent within 30 days after the day on which the practitioner is served with a copy of the decision.

Section 10(1). The tribunal shall (a) within 30 days after receiving a respondent's written submissions set a date, time and place for a hearing of the appeal; and (b) promptly give notice of the date, time and place of the hearing to the appellant and the respondent.

Section 11(1). An appeal shall be conducted as a hearing *de novo*.

Section 11(2). At a hearing, the appellant and the respondent have the right to appear before the tribunal and may, at their own expense, be represented by counsel.

Section 12(1). At a hearing, the tribunal may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.

6. There was no issue raised with regards to the tribunal's jurisdiction to hear this appeal and the matter was heard on October 14 and 15, 2015.

C. EVIDENCE BEFORE THE TRIBUNAL

7. At the tribunal hearing, both the Appellant and the Respondent were represented by counsel. The written documentation before the tribunal consisted of the following:

- (a) Binder of Materials with tabs 1 to 69;
 - (b) Written submissions on behalf of the Respondent dated October 30, 2015;
 - (c) Written submissions on behalf of the Appellant dated November 4, 2015.
8. In addition to the written evidence, the Tribunal heard *viva voce* testimony from Dr. Nosib, Dr. Akhtar and Dr. Weiler and oral arguments via telephone conference call on November 20, 2015.

D. EVIDENCE / FACTS

9. Dr. Nosib testified and the pertinent parts of his evidence have been summarized. Dr. Nosib's credentials are not in dispute and were reviewed by him in evidence. Also provided to the Tribunal was Exhibit 64, Dr. Nosib's Curriculum Vitae. Dr. Nosib is a Fellow of the Royal College of Physicians of Canada (FRCPC) in Internal Medicine and its subspecialty, Adult Cardiology; he is a diplomate of the American Board of Cardiovascular Medicine; he is a diplomate of the American Board of Internal Medicine; he is a licentiate of the Medical Council of Canada; he has had a Fellowship in Interventional Cardiology, Montreal Heart Institute, 2001 & 2010 and he has been recognized with awards such as the Francophone Fellow, Montreal Heart Institute in Interventional Cardiology in 1999 and the British Council Fellow in Cardiology at University of Glasgow in 1993.
10. Dr. Nosib began his medical practice with the Saskatoon Health Region in 2003 as a Critical Care Associate in Internal Medicine for the Saskatoon Health Region hospitals. Thirteen months later he commenced a residency in Internal Medicine. When he completed that residency in 2007, he commenced a residency in Cardiology, which was completed in 2009. During that time period, he was granted privileges to practice internal medicine in Saskatoon and subsequently as a cardiologist.
11. While working as an internal medicine resident and then as a cardiology resident, Dr. Nosib expressed a desire to work in the subspecialty of cardiac catheterization. This is also referred to as invasive or interventional cardiology. When Dr. Nosib first made inquiries about extending his

privileges to include invasive cardiology and the privilege of utilizing the Cardiac Catheterization lab, he was told that the lab was fully staffed and that therefore he would not be given those privileges. On his own, Dr. Nosib then went to Montreal, Quebec where he received interventional cardiology training, as per his Curriculum Vitae. It was on his return to Saskatoon that Dr. Nosib then began to actively pursue his aspiration to be granted privileges in the Cardiac Catheterization lab. From that point on, Dr. Nosib testified that he believes there was a systemic plan to deny him such privileges. Each request he made was rebuffed with the same response. That response was that there was no need for an additional interventional cardiologist in the Cardiac Catheterization lab and therefore his request was repeatedly declined.

12. In February, 2011, Dr. Nosib renewed his request for Cardiac Catheterization lab privileges to Dr. Hoepfner, Head of the Department of Internal Medicine (Exhibit 4). Dr. Nosib received a definitive response from Dr. Poulin, Vice President Medical Affairs, Saskatoon Health Region dated April 26, 2011 (Exhibit 6). The essence of that response was :

"As you know, the Division of Cardiology has indicated there is no need for an additional interventional cardiologist at the present time. They have not advertised a vacancy and have dissuaded other interventional cardiologists from applying. The question of need is currently under review by Dr. Hoepfner, Head of the Department of Medicine. This may involve asking for an opinion from one or more external reviewers.

Your application will be brought to the Credentials Committee on May 3, 2011. It is likely your application will be deferred by the Committee pending the outcome of Dr. Hoepfner's review. You will be advised of the Committee's recommendation immediately following the meeting."

13. In February, 2011, Dr. Nosib also requested assistance from the Saskatchewan Medical Association, in determining why he was unable to obtain the Cardiac Catheterization lab privileges he wanted. In her follow up letter to Dr. Nosib, Ms. Brenda Senger, Director of Physician Support Services (Exhibit 3) reiterated that at that time "there is no need or positions available in Saskatoon" but that should such a position open, Dr. Nosib would be welcome to apply. Ms. Senger further advised Dr. Nosib that the process to date had not been unfair.

14. Dr. Nosib testified that subsequently, he had a conversation with Dr. Hoepfner who requested references and also told him that there was no reason to deny Dr. Nosib the Cardiac Catheterization lab privileges, other than it was against the wishes of the head of Cardiology. As this was in conversation only and Dr. Hoepfner was not called as a witness to verify that he made these statements, the Tribunal is unable to give this evidence any weight. As well, the letter sent to Dr. Nosib by Dr. Hoepfner on June 23, 2011 (Exhibit 15) clearly states that Dr. Hoepfner has arranged for an external review of the cardiology service with an emphasis on the invasive laboratory.
15. This review was held in August, 2011 (Exhibit 20). Dr. Nosib met independently with the reviewers. Dr. T. G. Parker, University of Toronto and Dr. G.B. John Mancini, University of British Columbia. Regarding the current status of interventional volumes, the reviewers did not believe that it was currently too "low" (that is, both laboratory and individual operator volumes meet standards required for maintenance of competence, ACCF/AHA/SCAI Update of the Clinical Competence Statement on Cardiac Interventional Procedures Circulation 2007, 116:98-124) or too "high" (that is, current volumes are comparable to some other sites nationally that are served by a similar number of Interventional Cardiologists). Further, the reviewers agreed that there should be a comprehensive review to determine whether manpower within the Cardiac Catheterization lab should be augmented. On the third page of that Review, the stated recommendation is:

"A review and strategic planning process be commenced regionally, with the participation of members of the Division of Cardiology, to determine the needs for cardiac services in Saskatoon and referring areas. This process should encompass a review of all cardiac services and their adequacy at St. Paul's Hospital, and the implications of any changes on all cardiac services at RUH, including procedural volumes. This review must include a clear statement of the impact on both physician human resources in Interventional Cardiology as well as Infrastructure support for the period 2012-2017. Recruitment of an additional Interventional Cardiologist should await such a comprehensive review and human resource plan."

16. Dr. Nosib testified that he believed that the review was being conducted to avoid any appearance of conflict in the determination of whether the number of doctors in the Cardiac Catheterization lab should be expanded. Dr. Nosib interpreted the results of the review differently than the Department of Medicine. Dr. Nosib believed that the review recommended that, due to volume, the Cardiac Catheterization lab could take on another invasive cardiologist, which would bring the

number of physicians in the lab to six from five. Dr. Nosib then recommenced lobbying for these privileges. His application for same was heard by the Credentials Committee on September 27, 2011. On October 13, 2011 (Exhibit 24) Dr. Nosib was advised by email from Dr. Wilson of the Department of Medicine, that the Credentials Committee concurred with the recommendation that there be no change in his privileges; that the Credentials Committee recommended that a review of cardiology services and manpower be completed expeditiously; and that any new positions in the Cardiac Catheterization lab would be advertised and a search committee struck.

17. Dr. Nosib testified that during this time period, in conversation with Dr. Wilson, Dr. Wilson made comments to the effect that Dr. Nosib was being denied privileges due to his race. Dr. Nosib was born in India. This is not found in any of the Exhibits, nor were any witnesses called to verify these statements. The Tribunal therefore gives no weight to this allegation by Dr. Nosib.
18. In September, 2012, Dr. Nosib received a list of his approved privileges from the Saskatoon Health Region (Exhibit 32). This list included some invasive cardiology procedures. Unfortunately, the list was in error and these privileges were not to have been included. Dr. Nosib was advised that it was in error. Dr. Nosib took this personally and believes this was an affront to his ongoing efforts and a further example of the discrimination he is alleging. This Tribunal finds that this was simply the equivalent of a typographical error.
19. Since at least 2007, the Cardiac Catheterization lab has been operating with five cardiologists. These are Dr. de Villiers, Dr. Osvoid, Dr. Basran, Dr. Wells and Dr. Pearce. During 2012, Dr. Wells became ill and was unable to work. He was unable to fully perform his Cardiac Catheterization lab duties for an extended period of time and his workload was covered by the other four cardiologists. Dr. Nosib saw this as opportunity to again apply for Cardiac Catheterization lab privileges. This situation was explained in more detail by Dr. Akhtar, whose evidence will be reviewed later in this decision. However, not knowing the duration of Dr. Wells' leave, the Saskatoon Health Region considered recruiting an additional Interventional Cardiologist and this was conveyed to Dr. Nosib by letter from Dr. Plypchuk the Senior Medical Officer for the Saskatoon Health Region (Exhibit 36). The letter also referred to the hiring process which the Division of Cardiology will be utilizing. As there had been no such hiring process in the past, when Dr. Pearce and Dr. de Villiers were granted Cardiac Catheterization lab privileges Dr. Nosib

testified that he believed this process was discriminatory. This Tribunal finds no basis for that allegation; the more comprehensive hiring process would apply to all applicants, not just Dr. Nosib.

20. In June, 2013, Dr. Nosib was approached to find out if he was interested in privileges for the Echo Cardiology lab. Dr. Nosib testified that Dr. Akhtar told him that if he took this work, he had to formally abandon any continued applications for Cardiac Catheterization lab privileges. Dr. Akhtar testified (see below) and having heard the evidence of Dr. Akhtar, this tribunal finds that this allegation by Dr. Nosib is not credible.
21. In the fall of 2013, Dr. Geoff Johnston became the acting Head of the Department of Medicine. Dr. Nosib therefore renewed his request for Cardiac Catheterization lab privileges. Dr. Johnston reiterated that there will be no extension of Dr. Nosib's cardiology privileges.
22. By January, 2014, Dr. Wells had returned to work full time. (It was not until the Tribunal heard from Dr. Akhtar that the Tribunal learned that Dr. Wells was absent completely for a matter of a few months, then was gradually reintegrated until he was able to work in the Cardiac Catheterization lab full time some 16 months after his initial absence.) The Cardiac Catheterization lab therefore was back up to its functioning five cardiologists. At its meeting on January 23, 2014, the Credentials Committee determined that there was no need for an additional interventional cardiologist at that time. As a result, the earlier decision of Dr. Hoepfner to deny Cardiac Catheterization lab privileges to Dr. Nosib was confirmed. Dr. Nosib then appealed this decision to the Practitioner Appeals Committee. This Appeal was heard on May 12, 2014 and the Practitioner Appeals Committee agreed to support the recommendation of the Credentials Committee in its refusal to grant Cardiac Catheterization lab privileges to Dr. Nosib. By letter dated June 2, 2014 (Exhibit 48), Dr. Plypchuk advised Dr. Nosib of the reasons for the recommendations, three of which are:
 - "3. The Division/Department human resource plan did not support an additional interventional cardiologist at the time of his application for additional (interventional) privileges or at the time this matter was considered by the PAC.

4. Special training in an area does not automatically ensure privileges in that area.
 6. The Division/Department indicated that with current interventional cardiology resources there is no excess of wait times and also that current results of the Cardiac Catheterization lab are one of the best in the country as indicated by mortality results and door-to-procedure times as outlined by the Division Head."
23. The appeals to the Board of the Saskatoon Health Region and this Tribunal have followed.
24. Throughout his evidence, Dr. Nosib maintained that the denial of Cardiac Catheterization lab privileges to him was due to racial discrimination. He testified that he believes that members of the Practitioners Appeal Committee (PAC) who voted to uphold the denial of that privilege did so due to racial discrimination. He also believes that the members of the Board of the Saskatoon Health Region who refused his appeal also racially discriminated against him. There has been no evidence to support this very serious allegation. This Tribunal finds no basis whatsoever for the allegation of racial discrimination. As well, with reluctance, Dr. Nosib conceded that there are many other cardiologists in Saskatoon who do not have Cardiac Catheterization lab privileges.
25. Dr. Akhtar testified. Dr. Akhtar was Division head of Cardiology from 2002 to 2005 and again from 2011 to 2015. He has privileges in cardiology, with a subspecialty in echo cardiology. He does not have Cardiac Catheterization lab privileges. Dr. Akhtar once applied for Cardiac Catheterization lab privileges, but was denied as there was no room in the lab. He did not pursue it further.
26. The Cardiac Catheterization lab is a procedure room for invasive cardiology procedures. For the better part of a decade, there have been five cardiologists with these privileges. The current group, which was established in 2007 consists of: Dr. Wells, Dr. Orvold, Dr. de Villiers, Dr. Basran and Dr. Pearce. If a cardiology patient requires one of these specific procedures, that patient is referred by their cardiologist to one of these five. All of these doctors have at least ten years to go before retirement.

27. Dr. Wells was absent on a sick leave commencing in the spring of 2012. By the end of 2013 he was back to full functioning capacity. During that time there was a graduated return to work. As well, prior to returning full time, the Department arranged for an external review of his work to ensure he was still capable. At some point it was decided not to add another invasive cardiologist to the team. In his evidence, Dr. Akhtar sums up the situation well at page 290:

"It was a difficult time. The decisions were difficult to make. We felt that we had an obligation to Dr. Wells, who was one of our senior angioplastiers and well-respected. At the same time, there was extra work to do for everyone. We went to the extent of developing a plan of hiring someone, in fact, even the ad was written up, while at the same time as this was going on I was supervising Dr. Wells's return to work. And at some point a judgment call had to be made with the interventional doctors and Dr. Wells's potential return to work as to whether that's going to be successful or not because we felt an obligation, tomorrow and otherwise, to give him his job back when he comes back. And so at a point in – and I don't remember the exact date now, but, you know, we sat down, and we said, well, it looks like he's doing very well, and so we should just wait for him to come back, and, you know, there will be a period of time where we have to work a little harder, but that's our obligation to our colleague."

28. Dr. Akhtar believes that the recruitment of an additional interventional cardiologist should await the comprehensive review and human resources plan envisioned in the external review provided in 2011.
29. Dr. Akhtar denies that he said to Dr. Nosib that a position in echo cardiology was contingent on Dr. Nosib withdrawing his appeal or application for Cardiac Catheterization lab privileges. Dr. Akhtar was credible in this regard.
30. Dr. Akhtar provided uncontroverted testimony that the consensus Canada-wide among cardiologists is that it is necessary for Cardiac Catheterization lab doctors to perform at least 200 to 250 invasive procedures per year to maintain their skill set. The Tribunal received Exhibit 62 which sets out Cardiac Catheterization numbers for the Saskatoon Health Region. The page titled Quarterly Procedures Types demonstrates that, since 2012, there has been between 1200 and 1300 interventional cardiology procedures carried out per year. As there are five such practicing cardiologists, each cardiologist performs about 250 procedures per year, which is considered the optimal number. As such, Dr. Akhtar is of the opinion that at all times the human resource plan for interventional cardiology was and is appropriate. He believes the members of the Cardiac

Catheterization lab are comfortable with what they are doing and that an expansion would only be warranted if there is a notable increase in the number of patients. At this time, no more interventional cardiologists are required.

31. Dr. Robert Weiler testified. He is currently the interim senior medical officer ("SMO") of the Saskatoon Health Region, currently the vice president of Practitioners Affairs, the past president of the Medical Association and has chaired various committees. Dr. Weiler discussed the duties of the SMO as set out in Exhibit 1 of the materials. Dr. Weiler testified that the credentialing committee receives applications and processes them and generally, he will sit as an observer at the credentialing committee and interacts as directed by the credentialing committee. Recommendations of the credentialing committee usually are then carried forward to the Practitioner Advisory Committee for approval. When and if those are approved, Dr. Weiler presents those to the actual Board for consideration. Dr. Weiler testified that there is a 2013 provincial resource plan that has been produced, but not shared, and they are unsure of the final product for the Saskatoon Health Region. He also testified that in a practical sense, the health region needs to be assured that the patients and clients in the region have access to the services, to high-quality services, and in an expedient way. This is what drives the department heads in terms of recruiting, if necessary. Filed with this Tribunal was an excerpt from the Saskatoon Regional Health Authority Practitioner Staff Bylaws (Exhibit 1). Dr. Weiler drew our attention to Section 45(4) of these Bylaws, which governs all appointments to practitioner staff. These Bylaws have been in place since 2008.
32. Dr. Weiler became aware of Dr. Nosib's situation in 2013. The appearance of a conflict of interest can arise, when advice is given through the department heads towards the credentialing committee, because part of the advice is given by the people who are actually providing the service. This is seen across all disciplines, and not unique to medicine or cardiology, as the best information comes from those people working within that particular discipline. There are safeguards and standards and it is understood that there is an appeal process. The Saskatoon Health Region, despite any department's recommendations, still questions any proposed human resource plan and looks for its own confirmation.

33. Dr. Weiler testified there have never been at any time concerns expressed from cardiology that they could not meet with clinical demands and expectations in invasive cardiology. They have needs in other areas, in general cardiology. Dr. Weiler commented that an external review such as was done here (Exhibit 20) is rare and generally is only conducted to alleviate concerns about conflict of interest. Dr. Weiler's interpretation of this external review was that there were neither too many nor too few invasive cardiologists in the Saskatoon Health Region and that the current standard fit within what is often seen across the country.
34. Dr. Weiler attended the Practitioners Advisory Committee on May 12, 2014 and was consequently involved in both the Practitioners Advisory Committee process and that of the Board with respect to Dr. Nosib's application. The Committee is largely composed of various department heads (who are also practitioners). Dr. Akhtar, the division head at the time, was not a part of the deliberations of the Committee. The minutes set out that eight people voted and Dr. Weiler testified that it was by secret ballot. One person abstained. The Committee does not make binding decisions, only recommendations in an application for privileges, which the Board considers. The decision of the Practitioners Advisory Committee is before this Tribunal as Exhibit 48. This decision was appealed by Dr. Nosib to the Board of the Saskatoon Health Region. Dr. Weiler testified that between the Board hearing on October 29, 2014 and the decision of November 26, 2014, at the behest of the Board, Practitioner Affairs reviewed the process to date and concluded that the process met the goals of the Practitioner Affairs to ensure fairness.
35. Dr. Weiler testified that it is his personal desire, as well as the Board's goal, to address any aspects that risk dignity, collaboration and working together. Allegations, such as those perceived by Dr. Nosib of discrimination are taken very seriously and investigated thoroughly. At each step of the way of Dr. Nosib's appeal process, it was made evident that this was a concern of Dr. Nosib and each time a different set of eyes and ears listened to the story and evaluated the evidence. Dr. Nosib's allegations were taken seriously and addressed. Dr. Weiler testified that in his opinion, there is not and has never been evidence to support the allegation of discrimination. This Tribunal finds that Dr. Weiler provided his evidence in a fair, forthright manner and was ever respectful of Dr. Nosib's situation. This Tribunal absolutely accepts Dr. Weiler's evidence in this regard.

36. Finally, Dr. Weiler testified that, regardless of financial reward to individual invasive cardiologists, what is most important is that these doctors perform at least the minimum number of procedures to stay competent and comfortable doing that procedure. Dr. Weiler testified that at some point there has to be a limit set and with respect to invasive cardiologist, that limit had been set and there was no compromise in the delivery of care.

E. ANALYSIS OF GROUNDS OF APPEAL

A) **The Board failed to appropriately consider evidence provided by the Appellant physician regarding the denial of cardiac catheterization privileges.**

37. While the evidence before the Board was referred to in the evidence at this Tribunal, and it was acknowledged by the witnesses that this evidence was mirrored at this hearing, as the Appellant has correctly pointed out in his brief, the decision of this Tribunal is based on the evidence heard herein, the exhibits, counsel's briefs and arguments. The evidence at this hearing regarding the denial of Dr. Nosib's applications for Cardiac Catheterization lab privileges and the reasons for that denial were in abundance and considered and weighed by this Tribunal. The decision to deny Dr. Nosib those privileges was the correct one. Front and center is the issue of whether there should be an increase in the number of invasive cardiologists in the Saskatoon Health Region. This Tribunal agrees with the opinions and decisions of Dr. Akhtar, Dr. Weiler, the Credentials Committee, the Department of Medicine, the Physician Support Director of the Saskatchewan Medical Association, the Practitioner Advisory Committee and the Board of the Saskatoon Health Region that the answer to that question is that no increase is warranted. The current number of invasive procedures conducted, which has remained constant for several years, is capably handled by the current staff of five invasive cardiologists. This number of such procedures allows each invasive cardiologist to perform not too few and not too many such procedures in a year so that skills can be maintained, with patient care remaining uncompromised. That Dr. Nosib may be qualified in Invasive cardiology and has a fervent wish to work in this area is not a reason to expand the number of invasive cardiologists in the Saskatoon Health Region. That Dr. Nosib persisted in his pursuit of this privilege, renewing his application many times, does not give his application more weight. The above ground of appeal is dismissed.

- B) **The Board failed to give appropriate weight to evidence before it which indicated that medical privileges were being awarded on the basis of political or administrative expediency, rather than medical need.**
38. There was no credible evidence that medical privileges are or were awarded on the basis of political or administrative expediency. There was no evidence that the current medical need was in any way compromised or not being adequately addressed. Dr. Weiler provided this Tribunal with highly credible assurances that patient care, in the area of invasive cardiology, has at no time been compromised. This ground of appeal is dismissed.
- C) **The Board failed to appropriately consider contradictory explanations provided by the division head and others as to why the Appellant's application for privileges was denied.**
39. The evidence at this hearing was consistent as to why Dr. Nosib's application for privileges was denied. That explanation was that the current number of five invasive cardiologists is the right number for the Saskatoon Health Region. Dr. Nosib has chosen to take the rejection of his application personally. If an increase in the number of positions is not justified, then no cardiologist will be granted privileges to practice invasive cardiology, regardless of their qualifications. It is telling that, throughout this process, no other cardiologist has been granted these privileges, either. This ground of appeal is dismissed.
- D) **The Board further failed to apply the provisions of *The Saskatchewan Human Rights Code* despite the fact that issues of discrimination were raised by the Appellant physician and were before the Board.**
40. This Tribunal is cognizant of *Saskatchewan Human Rights Code Regulations*, RRS c S-24.1, Reg 1. In his evidence, Dr. Nosib expressed his strong belief that the reason he was denied invasive cardiology privileges was racial discrimination and that the refusal to create another Cardiac Catheterization lab position was done solely to exclude Dr. Nosib from that area of practice. There was no evidence to support this very serious allegation. Many dedicated health care professionals have been involved in assessing and reviewing Dr. Nosib's application for invasive cardiology privileges since 2011 to the present. This Tribunal agrees with the evidence of Dr. Weiler that all of these parties took Dr. Nosib's allegations of discrimination seriously to determine whether

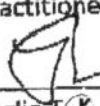
there was any foundation for same and found none. At this hearing there was no evidence to support this allegation. This ground of appeal is dismissed.

F. CONCLUSION

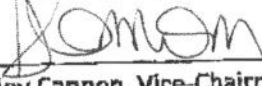
41. This Tribunal dismisses the appeal herein and confirms the decision of the Saskatoon Health Region to refuse Dr. Nosib's application for further cardiology privileges.

DATED this 18th day of January, 2016.

Practitioner Staff Appeals Tribunal



Leslie T. K. Sullivan, Q.C., Chair



Shelley Cannon, Vice-Chairperson



Dr. Milo Fink, Member