



Dr. Mosenza KIAPWAY

Council Decision

Date Charge(s) Laid:	April 11, 2023
Charge(s) Amended:	N/A
Outcome Date:	June 2, 2023
Hearing:	June 2, 2023
Disposition:	Reprimand

The Council of the College of Physicians and Surgeons of Saskatchewan imposes the following penalty on Dr. Mosenza Kiapway pursuant to The Medical Profession Act, 1981 (the "Act"):

Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Kiapway. The format of that reprimand will be in written format.



25 September, 2023

Dr. M. Kiapway



Saskatchewan



Dr. Kiapway:

At its meeting on the 2 June, 2023 the Council of the College of Physicians and Surgeons of Saskatchewan accepted your admission of guilt pertaining to charges of unprofessional conduct. These charges related to your failure to complete, within the designated timeframe, two terms of the undertaking you signed. The Council of the College of Physician and Surgeons of Saskatchewan imposed penalty pursuant to *The Medical Professional Act, 1981*. Council accepted the joint recommendation for a written reprimand put forward by your legal counsel and that of the Registrar's Office.

You, Dr. M. Kiapway, having been found guilty of professional misconduct while practicing medicine in the province of Saskatchewan are hereby reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.

You signed an undertaking as part of an Alternate Dispute Resolution (ADR) in April 2021. Part of that undertaking was the completion of a communication course by October 31, 2021. This was not completed until April 2022. You also failed to complete the chart audit in a timely fashion.

Signed undertakings must be given the utmost attention. It is your responsibility to exercise due diligence in meeting the terms of any undertaking you sign. Council recognised the mitigating factors in this case, including the fact that you admitted your error at the earliest opportunity, your omission was not intentional and there was no harm to patients. However, the fact that you failed to request an extension of time, which Council would have been quite willing to approve, undermines the ability of the College to adequately regulate the profession and protect the public. Council takes the lack of compliance with undertakings seriously and finds your actions unacceptable.

It is the hope of Council that you reflect and learn from this experience and maintain the standards of the profession going forward.

The Council of the College of Physicians and Surgeons of Saskatchewan

Reasons for Decision

In the Matter of a Penalty Hearing for Dr. Mosenza Kiapway held before the Council of the College of Physicians and Surgeons of Saskatchewan

2 June, 2023

Ms. Sheila Torrance representing the Registrar's Office
Mr. David Thera, K.C. representing Dr. M. Kiapway

Background

Dr. Kiapway signed an undertaking with the College on the 31 [sic] April, 2021. The full terms of that undertaking and associated timelines have been made available. The Executive Committee of Council was made aware in 2022 that several of the time sensitive terms of the signed undertaking were not completed according to the agreed timeline. It is the will of Council that failure to comply with the terms of an undertaking is to be considered as a matter of potential discipline in and of itself. The Executive Committee has reviewed such lapses on a case by case basis to determine if they warrant further discipline as matters of unprofessional conduct. In this specific matter, the Executive Committee deferred its decision pending the outcome of a chart review which was not delayed but remained a part of the initial undertaking. After receiving acceptable reporting from College staff with respect to the outcome of the chart review, the Executive Committee ruled on the outstanding terms of the undertaking which had not been met within the agreed time.

The two primary areas of delayed compliance was the failure to complete the agreed upon communications course by October 31, 2021 (instead completing it by April 2022), and failing to provide acceptable monthly audit reporting as requested by Dr. Oberholzer, Deputy Registrar in August 2021.

Upon considering this matter, the Executive Committee charged Dr. Kiapway on 11 April, 2023, as set out below:

You Dr. Mosenza Kiapway are guilty of unbecoming, improper, unprofessional or discreditable conduct contrary to the provisions of section 46 (o) and/or (p) of The Medical Profession Act, 1981, S.S. 1980-81, c. M10.1 and/or bylaw 7.2 of the CPSS

regulatory bylaws, the particulars whereof are that you failed to comply with the terms of an undertaking entered into with the College of Physicians and Surgeons of Saskatchewan.

The evidence that will be led in support of the charge will include the following:

- a) You signed an undertaking with the College in April 2021.*
- b) You failed to complete two terms of the undertaking within the designated timeframe.*
- c) You failed to request an extension of time to complete the terms in advance of their expiry.*

Dr. Kiapway did not contest the charges, and the matter was considered at a penalty hearing held at the June 2023 regular meeting of Council.

Decision

The Council of the College of Physicians and Surgeons of Saskatchewan imposes the following penalty on Dr. Mosenza Kiapway pursuant to The Medical Profession Act, 1981 (the "Act"): Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Kiapway. The format of that reprimand will be written.

Reasons

As previously discussed, the Council has directed that all matters of failing to comply with the terms of an undertaking be considered as potential unprofessional conduct. This is of the utmost importance as failure to meet the terms of an undertaking erodes the very nature of alternate dispute resolution. The Council believes that ADR is a valuable tool in the management of some unprofessional conduct. It is important the College remains visibly competent in managing discipline appropriately. Both general and specific deterrence are aided by the successful application and resolution of undertakings. That being said it is appropriate that such cases are considered on a case by case basis to ensure that aggravating and mitigating factors are considered. In this case there were several mitigating factors:

- Dr. Kiapway admitted his guilt in this matter from the outset and was seen to be genuinely contrite.

- There was no evidence suggesting that this was a deliberate choice to avoid meeting the terms of the undertaking. Rather, there were errors made in registering for the incorrect course which rendered it functionally impossible to meet this term of the undertaking. Dr. Kiapway conceded that the fault was entirely his. He recognized that it would have been preferable to notify the College of the mistake made and request an extension. In similar circumstances, extensions have been offered to physicians subject to an undertaking to allow them to avoid further discipline.
- The term mandating reporting to the College required a fairly complex dialogue between Dr. Kiapway, the College and the SMA EMR program. As such there were administrative barriers to the timely completion of this term. Again, this was not a deliberate evasion of the timeline. Improved communication with the College could have resulted in an adjusted timeline in this matter as well.

Given the lack of aggravating factors, and the significant mitigating factors discussed, the Council concluded that a written reprimand would be sufficient in this matter. Council is already confident in the remorse of Dr. Kiapway in this matter.

**Approved by the Council of the College of Physicians & Surgeons of Saskatchewan:
23 September, 2023**