



Dr. Oladayo OLADIPO

Council Decision

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| Date Charge(s) Laid: | January 14, 2020 |
| Outcome Date: | June 18, 2021 |
| Hearing: | Oct 7-8, 2020 |
| Penalty Hearing | June 18, 2021 |
| Disposition: | Reprimand, Suspension, Conditions, Costs |

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

- 1) Pursuant to Section 54(1)(e) of the Act, the Council hereby reprimands Dr. Oladipo. The format of that reprimand will be in written format.
- 2) Pursuant to Section 54(1)(b) of the Act, the Council hereby suspends Dr. Oladayo Oladipo for a period of 1 month, which is deemed to have been served between January and June, 2021 when Dr. Oladipo was not practising medicine.
- 3) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Oladipo successfully complete a boundaries course acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs "PROBE Ethics & Boundaries Course" by CPEP and "Professional Boundaries and Ethics" by PBI Education are boundaries programs acceptable to the Registrar.
- 4) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Oladipo successfully complete a course on ethics/professionalism acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs "Medical Ethics, Boundaries and Professionalism" by Case Western Reserve University and "Medical Ethics and Professionalism" by PBI Education are ethics programs acceptable to the Registrar.
- 5) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Oladipo successfully complete a course on communications with team members acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs "Effective Team Interactions" by Saegis and "Improving Inter-Professional Communication" by CPEP are programs acceptable to the Registrar.
- 6) Pursuant to Section 54(1)(i) of the Act, the Council directs Dr. Oladipo to pay the costs of and incidental to the investigation and hearing in the amount of \$26,634.19. Such payment shall be made in full by the 18 June, 2022.
- 7) Pursuant to Section 54(2) of the Act, if Dr. Oladipo should fail to pay the costs as required by paragraph 6, Dr. Oladipo's licence shall be suspended until the costs are paid in full.

- 8) The Council reserves to itself the right to reconsider and amend any of the terms of this penalty decision, upon application by Dr. Oladipo. Without limiting the authority of the Council, the Council may extend the time for Dr. Oladipo to pay the costs required by paragraph 6.

In the Matter of a Penalty Hearing for Dr. Oladayo Oladipo

18 June 2021

**Ms. Sheila Torrance appearing for the Registrar's Office
and Mr. David Thera, Q.C. appearing for Dr. Oladipo**

Introduction

Dr. Oladayo Oladipo is an emergency room physician. He obtained his medical degree in Nigeria. At the time of his professional misconduct he was working on contract in the Regina area of the Saskatchewan Health Authority. He is not currently practicing medicine pending licensure deliberations in another jurisdiction pending the outcome of this matter.

Charges

On 14 January 2020, the Executive Committee of Council laid the following charges.

The Executive Committee of the College of Physicians and Surgeons directs that, pursuant to section 47.6 of The Medical Profession Act, 1981, the Discipline Committee hear the following charges against Dr. Oladayo Oladipo, namely:

1. You Dr. Oladayo Oladipo are guilty of unbecoming, improper, unprofessional or discreditable conduct contrary to the provisions of Section 46(o) and/or section 46(p) of The Medical Profession Act, 1981, SS 1980-81, c M-10.1 and/or Bylaw 8.1(b)(xvii) and/or paragraph 52 of the Code of Ethics contained in Bylaw 7.1 of the Regulatory Bylaws of the College of Physicians and Surgeons of Saskatchewan, particulars whereof are that in the course of your professional practice in Regina you engaged in inappropriate conversation with and inappropriate touching of a co-worker.

The evidence that will be led in support of this charge will include some or all of the following:

- a. On or about November 10, 2018, you were working at the Pasqua Hospital with a hospital employee named in the charge as Co-worker #1.
- b. You noted Co-Worker #1 appeared to be in discomfort.

- c. You examined Co-worker #1 by placing your hand on her back and neck, rubbing or massaging her shoulder and back, and manipulating her arm.
 - d. Co-worker #1 asked you to stop the examination and you did not.
 - e. Also on or about November 10, 2018, you treated Co-worker #1 when she was registered as a patient in the emergency department at the Pasqua Hospital.
 - f. In the course of treating Co-Worker #1, you commented to her that you could not be her physician much longer as you would not be able to treat her sexually in the way you wanted (or similar words).
 - g. While you were making these comments to Co-worker #1, you were leaning towards her.
2. You Dr. Oladayo Oladipo are guilty of unbecoming, improper, unprofessional or discreditable conduct contrary to the provisions of Section 46(o) and/or section 46(p) of The Medical Profession Act, 1981, SS 1980-81, c M-10.1 and/or Bylaw 8.1(b)(xvii) and/or paragraph 52 of the Code of Ethics contained in Bylaw 7.1 of the Regulatory Bylaws of the College of Physicians and Surgeons of Saskatchewan, particulars whereof are that in the course of your professional practice in Regina you engaged in inappropriate conversation with and inappropriate touching of a co-worker.

The evidence that will be led in support of this charge will include some or all of the following:

- a. On one occasion during 2015 or 2016, you were working at the Pasqua Hospital with a hospital employee named in this charge as Co-worker #2.
- b. You approached Co-worker #2 as she was standing at a monitor and you kissed her on the right cheek.
- c. You then left without saying anything to Co-worker #2.
- d. On or about November 10, 2018, you asked Co-worker #2 and another colleague whether they were ticklish.
- e. You then attempted to tickle Co-worker #2 and touched her on her side or hip.

The matter was brought to a discipline committee and Dr. Oladipo was found guilty of charge #2.

Decision of Council

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- 2) Pursuant to Section 54(1)(b) of the Act, the Council hereby suspends Dr. Oladayo Oladipo for a period of 1 month, which is deemed to have been served between January and June, 2021 when Dr. Oladipo was not practising medicine.
- 3) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Oladipo successfully complete a boundaries course acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs “PROBE Ethics & Boundaries Course” by CPEP and “Professional Boundaries and Ethics” by PBI Education are boundaries programs acceptable to the Registrar.
- 4) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Oladipo successfully complete a course on ethics/professionalism acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs “Medical Ethics, Boundaries and Professionalism” by Case Western Reserve University and “Medical Ethics and Professionalism” by PBI Education are ethics programs acceptable to the Registrar.
- 5) Pursuant to Section 54(1)(g) of the Act, the Council requires that Dr. Oladipo successfully complete a course on communications with team members acceptable to the Registrar, and provide proof of completion. Such course shall be completed at the first available date, but in any case within six months. The programs “Effective Team Interactions” by Saegis and “Improving Inter-Professional Communication” by CPEP are programs acceptable to the Registrar.
- 6) Pursuant to Section 54(1)(i) of the Act, the Council directs Dr. Oladipo to pay the costs of and incidental to the investigation and hearing in the amount of \$26,634.19. Such payment shall be made in full by the 18 June, 2022.
- 7) Pursuant to Section 54(2) of the Act, if Dr. Oladipo should fail to pay the costs as required by paragraph 6, Dr. Oladipo’s licence shall be suspended until the costs are paid in full.

- 8) The Council reserves to itself the right to reconsider and amend any of the terms of this penalty decision, upon application by Dr. Oladipo. Without limiting the authority of the Council, the Council may extend the time for Dr. Oladipo to pay the costs required by paragraph 6,

Documents under consideration

- Information document 103_21 'Dr. O. Oladipo – Penalty Presentation – Registrar's Office'
- Information document 125_21 'Dr. O. Oladipo – Penalty Presentation on Behalf of Dr. Oladipo'

Position of the Registrar's office on penalty

Verbal and written arguments were presented by Ms. Torrance on behalf of the Registrar's Office. The Registrar's Office's suggested penalty included:

- a) A reprimand in the format desired by Council.
- b) Successful completion of courses in boundaries, ethics/professionalism, and communication with team members.
- c) Payment of 50% of the costs associated with the investigation and hearing.

Dr. Oladipo denied that he kissed Co-worker #2. The discipline committee preferred the evidence presented by the complainant on this matter.

It was opined that there is a significant power imbalance between nurse and physician coworkers, and that this power imbalance renders any harassing behavior in the workplace a deterrent to effective collegial work. This is of particular importance in a work environment where the ability for colleagues to work well together is essential for the safe delivery of patient care. The charges laid do not pertain to Dr. Oladipo's patient care, but they did negatively impact the work environment which does present the potential for nursing discomfort in the workplace which may impact communication or other factors essential to ongoing safe care delivery while working with Dr. Oladipo.

The Discipline Committee considered the kiss as sexual in nature which makes the conduct more egregious. The tickling was also considered sexual harassment and offended the body integrity of the complainant. Ms. Torrance suggests that Dr. Oladipo did not consider the offending actions as sexual in nature which demonstrates a failure to recognize the significance of his acts and their impact on both the complainant and potentially on other staff members present when the acts occurred.

The Registrar's Office did not recommend a suspension in this matter. The amount of time that Dr. Oladipo has been out of work pending the outcome of this matter has had a financial and professional effect similar to a suspension.

The Camgoz factors were considered as they pertain to this matter. Ms. Torrance argued that a failure to apply an appropriate penalty may damage the public's confidence in the profession's ability to self-regulate. The proposed penalty components serve the principles of both general and specific deterrence. Specific attention was paid to public protection as appropriate penalty may serve to normalize the physician staff relationships in the emergency room, which in turn, will aid in effective patient care.

Precedents were provided to demonstrate that the proposed penalty is not disparate to similar, but not identical, examples of misconduct.

The Registrar's Office suggests that 50% of the total cost of hearings and investigation should be applied. This is based on the Discipline Committee's decision that insufficient evidence was presented to reach a finding of guilt on charge #1. The distribution of costs both in investigation and hearings for this matter were balanced between the two charges and therefore 50% of the total costs is considered reasonable.

Arguments were made in support of applying specific course completion to the penalty decision. The Registrar recognized that Dr. Oladipo has completed some course work on his own accord and is registered for others. The Registrar is not satisfied with the scope and selection of the courses completed and argues that the courses noted in the penalty suggestions would be more acceptable to the Registrar's Office.

Position of behalf of Dr. Oladipo on Penalty

Mr. Thera presented arguments with respect to a suggested penalty to include only a written reprimand. Several factors were presented in support of this suggested resolution, including:

1. Fifteen years of service as an Emergency Physician.
2. No previous record of discipline.
3. The offence was at the low end of the scale.
4. There was nothing overtly sexual about the conduct.
5. There was no lasting impact on the complainant or the working relationship
6. There is no risk to reoffend in the future.
7. Dr. Oladipo has completed some relevant courses and is currently registered and has paid for two of the other courses referenced by the Registrar.
8. Dr. Oladipo will bear a permanent and public record of the Discipline Committee decision.
9. Dr. Oladipo and his family have suffered a significant financial impact.

Mr. Thera's written and verbal presentation did apply significant emphasis on the financial duress that Dr. Oladipo is suggested to be in. The inability to re-instate

his British Columbia license based on the CPSBC's desire to have this matter concluded before rendering its decision has effectively suspended Dr. Oladipo from practise. He has been unable to find appropriate locum work while this matter has been progressing. As such, it was argued that any application of costs as a component of penalty would be unduly punitive.

Dr. Oladipo has recently completed the following courses:

- a. Memorial University - Professionalism in Practice – May 2021
- b. Saegis – “Strategies for Managing Unprofessional Behavior” – October/November 2020
- c. Fellowship in Health System Improvement – University of Alberta School of Public Health

In addition, Dr. Oladipo is registered for the August 2021 sitting of the PROBE Ethics and Professionalism course and Saegis – Effective Team Communication. Both courses are generally accepted by the Registrar's Office as acceptable for coverage of matters pertaining to medical ethics, boundaries and professionalism, and communication. It was argued that these courses are strongly related to the matter at hand and as such, there is no imperative for Council to specifically apply courses as a component of penalty as they have already been completed or will be in short order.

Varied precedents were presented which argue in favor of a more lenient penalty decision in this matter.

Reasons for Decision

The Council deliberated on this matter and the focus of those deliberations was on two specific aspects of the proven charge; the sexual nature of Dr. Oladipo's actions and potential for risk to patients. The Council is aware that all misconduct exists on a spectrum of severity. The discipline committee was clear in articulating that they considered Dr. Oladipo's acts to be sexually motivated, and as such, they are not low level actions, but must be considered through the lens of sexual misconduct.

Mr. Thera suggests that there was no risk to patient care, as this matter did not directly involve patient care. The council was unable to accept this position. An effective working relationship must exist between physicians and nurses in order to foster effective communication and avoid distraction or awkwardness. This is especially true in the emergency room environment, where constant communication is required despite a huge variety in patient care requirements. Any behavior that fractures the effectiveness of the care team places patients in direct risk. For this reason, the Council was unwilling to accept assertions on behalf of Dr. Oladipo that patients were not at risk directly or indirectly due to his actions.

Mr. Thera argued that there was no lasting impact on the complainant or the working relationship and that there is no risk to reoffend in the future. The first statement may or may not be true, but the second is not objectively demonstrable based on the evidence provided to the Discipline Committee or the arguments made to the Council.

There was no disagreement that a reprimand is appropriate. A written reprimand is acceptable to the Council.

In the matter of costs applied, the Council accepts that in matters where a physician is found to be guilty of misconduct the profession as a whole should not bear the costs of investigations and hearings. In this matter charge #1 was not proven at the Discipline Committee and therefore the costs pertaining to this charge have been absorbed by the College. Council agrees that 50% of the total costs is an appropriate middle ground.

Neither Ms. Torrance nor Mr. Thera suggested that a period of suspension should be applied to this matter. The council believes that this matter does rise to the level of a suspension but recognizes that Dr. Oladipo's inability to work in British Columbia could, in part, be dependent on the completion of this matter and that there is some basis to consider a *de facto* suspension to have been served already. The Council did feel that the principles of general deterrence requires a *de jure* suspension be applied to penalty. The Council therefore added a one month suspension to the penalty which will be considered to have been served retroactively in the time that Dr. Oladipo has been out of practise.

In the matter of courses, Dr. Oladipo has demonstrated to have taken some courses already. However, neither 'Memorial University - Professionalism in Practice' nor 'Fellowship in Health System Improvement – University of Alberta School of Public Health' are considered appropriate as sufficient course content aimed to avoid further sexual misconduct. The 'Saegis – Strategies for Managing Unprofessional Behavior' is a high quality course but is not sufficiently focused on the matters at hand. Dr. Oladipo is in fact registered for two of the courses generally accepted by the Registrar's Office. The Council therefor still considers publication of the mandated courses in the penalty decision to be necessary for the public to maintain confidence that the Council has done its duty with respect to discipline. In this circumstance if the Council were to avoid specifically articulating the courses in the penalty decision, there is no effective means for members of the profession or the public to see that such courses were in fact a component of the penalty, even though they may have been completed by the physician. It is less likely that the public would be willing to read the much longer text of Council's reasons for decision in order to identify the unpublished components of penalty. Council has decided to

maintain its own selection of courses appropriate to the matter and to publish the courses as a component of the penalty decision as per normal practise.

Accepted by the Council of the College of Physicians and Surgeons of Saskatchewan: 18 September, 2021

Amended by the Council of the College of Physicians and Surgeons of Saskatchewan: 19 November, 2021