

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Jayant Shankerprasad Bhatt, this is notice that the Discipline Committee ordered that there shall be a ban on publication of the names and any information that could disclose the identity of patients referred to orally or in the exhibits filed at the hearing under subsection 45(3) of the Health Professions Procedural Code (the Code), which is Schedule 2 to the Regulated Health Professions Act, 1991.

Subsection 93(1) of the Code, which is concerned with failure to comply with these orders, reads:

Every person who contravenes an order made under ... section 45 or 47... is guilty of an offence and on conviction is liable,

(a) in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence; or

(b) in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Indexed as: **Ontario (College of Physicians and Surgeons of Ontario) v. Bhatt, 2016**
ONCPSD 10

**THE DISCIPLINE COMMITTEE OF THE COLLEGE
OF PHYSICIANS AND SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing directed
by the Complaints Committee or the Executive Committee or the Inquiries, Complaints and Reports
Committee of the College of Physicians and Surgeons of Ontario pursuant to Section 26(2) or Section 36(1)
or Section 26(1) of the **Health Professions Procedural Code** being Schedule 2 of the *Regulated Health
Professions Act, 1991*, S.O. 1991, c. 18, as amended.

B E T W E E N:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. JAYANT SHANKERPRASAD BHATT

PANEL MEMBERS:

**DR. S. BODLEY
DR. C. LEVITT
DR. P. GARFINKEL
DR. E. ATTIA (PhD)
D. GIAMPIETRI**

Hearing Date:	April 4, 2016
Decision Date:	April 4, 2016
Release of Written Reasons:	May 9, 2016

PUBLICATION BAN

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on April 4, 2016. At the conclusion of the hearing, the Committee stated its finding that the member committed an act of professional misconduct and delivered its penalty and costs order with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Bhatt committed an act of professional misconduct:

1. under paragraph 1(1)33 of O. Reg. 856/93, in that he has engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and
2. under paragraph 1(1) 34 of O. Reg. 856/93 in that he engaged in conduct unbecoming a physician.

RESPONSE TO THE ALLEGATIONS

Dr. Bhatt admitted the first allegations in the Notice of Hearing, that he engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Counsel for the College withdrew the second allegation in the Notice of Hearing.

THE FACTS

The following Agreed Statement of Facts and Admission on Liability was filed as an exhibit and presented to the Committee:

1. Dr. Jayant Shankerprasad Bhatt (“Dr. Bhatt”) is a general internist who received his certificate of registration authorizing independent practice in 1973. He received his specialist qualification in internal medicine in 1977.
2. Dr. Bhatt has practised medicine at Hospital Z, (the “hospital”), since 1977. Dr. Bhatt has held a variety of positions at the hospital, including Chief of Medicine and Chief of the Intensive Care Unit.

The College Investigation

3. An investigation into Dr. Bhatt’s practice was initiated after the College received information from Hospital Z in July 2014, concerning Dr. Bhatt’s conduct and behaviour in the hospital towards colleagues, staff and patients.

Background

4. Dr. Bhatt has a history of disruptive, unprofessional and inappropriate conduct and behaviour towards colleagues, staff and patients in the hospital; in particular towards female colleagues, staff and patients.
5. In 2011, as a result of complaints made within the hospital from colleagues, staff and patients over a number of years, Dr. Bhatt entered into a contract with the hospital setting out expectations for his conduct and behaviour and providing for a workplace monitor. As of January 31, 2014, the hospital advised Dr. Bhatt that the terms of the contract regarding his conduct and behaviour had been satisfied and monitoring was discontinued.

Current Allegations

6. In July 2014, Dr. Bhatt was put on notice by the hospital that it was reviewing his privileges based on receipt of seven new complaints regarding his conduct and behaviour. The hospital made a report to the College concerning the complaints. As a result of the new complaints, Dr. Bhatt entered into a further voluntary undertaking with the hospital to monitor his conduct and behaviour. The undertaking set out the hospital's expectations for Dr. Bhatt's practice and conduct going forward. Dr. Bhatt agreed to stop working in the ICU and to stop participating in on-call consultations.

7. The College investigation revealed that, between approximately 2008 and 2014, the hospital received complaints from patients regarding Dr. Bhatt and requests from patients not to see Dr. Bhatt because of his unprofessional, inappropriate and derogatory conduct and behaviour. For example, a patient in the cardiovascular program made the following complaint:

- Dr. Bhatt commented on her weight and stated, "You should keep the lights on at night so that food fairy doesn't put food in your mouth," and, "I bet you \$100 that you can't lose weight." The patient felt hurt and intimidated by Dr. Bhatt's rude and unprofessional behaviour.

8. In addition, the College's investigation disclosed that, between approximately 2008 and 2014, staff at the hospital has been subjected to inappropriate, derogatory and unprofessional conduct and behaviour from Dr. Bhatt.

9. Specific complaints are as follows:

- Nurse A – Nurse A has experienced inappropriate behaviour and rudeness, both privately and in front of patients, including Dr. Bhatt telling her to be quiet and not to talk to patients. Once, Nurse A asked Dr. Bhatt a question and he said, "Shut the fuck up." At one point, she asked him to stop behaving this way and he was better for about two days and then reverted. She was stressed

and frightened to the point that a panic button was installed at her work station;

- Nurse B: She has observed Dr. Bhatt being rude and aggressive with patients and staff. Dr. Bhatt once yelled at her over the telephone and she hung up. Dr. Bhatt then tried to call her at home and later tried to go through her husband to discuss the issue afterwards. She has seen him corner females in rooms and they come out crying;
- Nurse C: When she first started working with him, after thirty years of nursing, he yelled at her about paperwork and suggested she would go to jail, making her cry. He was the first doctor to ever make her cry in thirty years. She has observed him being rude and demeaning to staff and patients and has reported his behaviour on a couple of occasions to management. Staff have to cater to Dr. Bhatt's moods and respond accordingly;
- Nurse D: She has worked with him for 28 years. She states one must adjust to his moods. He has called her "monster" and, although she told him she found it offensive and to stop, he continued. He once hit her with a patient chart and she confronted him about this. She did not feel she was in physical danger. He has called her "stupid" and "useless" in public. She has received numerous patient complaints about him and patients specifically ask not to see him;
- Doctor X – Emergency Department: She worked with Dr. Bhatt in the Emergency Department. He interfered with Doctor X's care of a patient in the ER, aggressively stated that the patient was not being cared for properly, instructed the doctor to remove the patient's family from the room and was demeaning to a nurse who was tending to the patient. The next day, Dr. Bhatt again spoke to Doctor X in reference to the same patient and the care provided in a manner that she found threatening, abusive and condescending. In the days following, Doctor X received multiple telephone calls from Dr. Bhatt which she did not take or return. She felt intimidated by the number calls. Dr. X also reported that patients asked not to see Dr. Bhatt because he is rude and demeaning.

- Member, Town W and District Hospital Foundation – The member, a volunteer, received complaints from donors that Dr. Bhatt had pressured them to donate to Town W Cardiovascular Program. Dr. Bhatt came to see her to complain that a recent donation was too small and he could get more. The member tried to explain the donor’s position and Dr. Bhatt became rude and used foul language. The member wrote a letter outlining her concerns to the hospital CEO. Subsequently, Dr. Bhatt came to see her and closed the door. He handed her a donation and asked her why she wrote the letter of complaint. She refused to discuss her complaint with him. She felt fearful and describes his manner as that of a bully.

Post-Referral Conduct

10. The above matters were referred for discipline by way of Notice of Hearing dated April 22, 2015.

11. In the fall of 2015, the hospital asked Dr. Bhatt to assist in consultation calls for in-patients, something Dr. Bhatt had not done since entering into the undertaking with the hospital in October 2014, referred to in paragraph 6 above. Dr. Bhatt did this work for one week during which time the following complaint arose.

12. On October 5, 2015, a newly-qualified female hospitalist at Hospital Z, Dr. Y, reported to the Chief of Staff that she experienced an unpleasant and unprofessional interaction with Dr. Bhatt. The matter was reported to the College for investigation. The investigation disclosed the following. In mid-August 2015, Dr. Y had her first interaction with Dr. Bhatt. The conversation occurred in the course of a telephone call made by Dr. Y to Dr. Bhatt to discuss a patient’s care. Dr. Y reported that Dr. Bhatt was abrupt, curt and questioned her management of the patient. She felt that Dr. Bhatt was suggesting that she did not know what she was doing and was not taking appropriate care of the patient. She felt professionally threatened when Dr. Bhatt said words to the effect, “the patient’s family will not be happy,” and suggested that the care she was providing was not “up to par.” After the incident, Dr. Y felt anxious and concerned.

13. After the above incident, it was agreed as between the hospital and Dr. Bhatt that Dr. Bhatt would no longer do consultations for in-patients.

Admission

13. Dr. Bhatt admits the facts specified above, and admits that, based on these facts, he engaged in professional misconduct by engaging in an act or omission that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts and Admission on Liability. The Committee therefore accepted Dr. Bhatt's admission and found that he committed an act of professional misconduct in that he engaged in an act or omission that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

PENALTY AND REASONS FOR PENALTY

Counsel for the College and counsel for the member made a joint submission as to an appropriate penalty and costs order.

The Committee accepted as fact that, while practising internal medicine at Hospital Z between 2008 and 2014, Dr. Bhatt made inappropriate, demeaning, and unprofessional comments to staff, patients, and colleagues.

Further, in August 2015, he made similar inappropriate, demeaning, and unprofessional comments to a fellow physician, even after he had signed a contract monitoring his behaviour with the hospital.

The joint submission on penalty and costs presented to the Committee included a four month suspension, a practice restricted to specific outpatient settings, and oversight of diagnostic tests as authorized by the hospital's Chief of Staff.

Additionally, Dr. Bhatt must never be alone with a particular nurse. He must also complete an intensive, two-to-three-day PROBE course on communications, workplace interactions, and boundaries.

Further, Dr. Bhatt must continue seeing his psychiatrist on a monthly basis for at least two years, with his psychiatrist providing reports on Dr. Bhatt's progress to the College.

Lastly, Dr. Bhatt must also participate in a monitoring program to ensure that any concerns of staff will be communicated to the College.

The Committee understood that a joint submission on penalty should not be rejected unless the joint submission would be contrary to the public interest and the penalty would bring the administration of justice into disrepute. This threshold is a high one, as noted by the Ontario Court of Appeal in *R v. Cerasuolo*, 2001 CanLII 24172: "...[the high threshold for rejecting a joint submission on penalty] is intended to foster confidence in an accused who has given up his right to a trial that the joint submission be obtained in return for a plea of guilty will be respected by the sentencing judge."

Dr. Bhatt's behaviour

The Committee noted that, as a result of a multitude of complaints from hospital colleagues and patients, Dr. Bhatt had signed a contract with the hospital in 2011 setting out behavioural expectations and providing for a workplace monitor. Although his behavior during the contract's term, until January 2014, was deemed satisfactory, Dr. Bhatt promptly resumed his inappropriate behaviour as soon as the monitoring ceased. Seven new complaints were made against him within six months' time.

As a result of the flurry of post-contract complaints in 2014, Dr. Bhatt had entered into a further voluntary undertaking with the hospital to monitor his behavior. He had also undertaken to work in a less hectic and stressful part of the hospital.

But in October 2015, a female doctor experienced an unpleasant, unprofessional interaction in which Dr. Bhatt was abrupt and curt to her. He also questioned her management of a particular patient. This doctor felt professionally threatened by Dr. Bhatt.

Penalty principles

The Committee found that Dr. Bhatt's behavior was egregious, inappropriate, and harmful. His misconduct persisted over multiple years and impacted many colleagues, staff, and patients. Once his monitoring ceased, Dr. Bhatt immediately reverted to the inappropriate, unprofessional behaviour that the monitoring had been designed to oust. His conduct caused significant distress to his colleagues, to the point that one nurse installed a panic button in her office. Some staff members went out of their way to avoid Dr. Bhatt. While there is no evidence to suggest he provided less-than-adequate care, some patients did specifically request not to see him because they felt uncomfortable interacting with him.

The College's primary duty is to protect the public. Patients have complained about Dr. Bhatt's manner and behavior. Some have refused to see him. Patients should not have to endure demeaning and insulting behavior from their physician. The Committee was particularly alarmed that the behaviour was directed almost exclusively at women colleagues, patients, and co-workers.

Another penalty principle is to instill public confidence in the profession and its ability to self-govern. Failing to address disruptive behavior in the workplace can clearly affect the integrity and reputation of the profession and its ability to self-govern.

A third important penalty principle is general deterrence. A disruptive physician's behaviour can easily poison a workplace. The Committee felt that hospital staff should be able to attend work without having to fear abusive behaviour from colleagues or superiors.

Finally, a penalty should meet the goal of specific deterrence. Dr. Bhatt has demonstrated a longstanding pattern of humiliating female colleagues, nurses, and patients. The Committee wished to send a message to this physician to ensure that he ceases this misconduct.

The Committee agreed with the joint submission on penalty, and felt it appropriate that the Order implements a system of checks and balances so that Dr. Bhatt's improvements in behavior may be maintained.

Aggravating factors

1. After signing a voluntary undertaking with the hospital, Dr. Bhatt was unpleasant and unprofessional to a female doctor in August 2015.
2. Dr. Bhatt's abusive behaviour towards colleagues, staff, and patients spanned several years.
3. Despite receiving warnings about his behaviour, Dr. Bhatt did not stop his misconduct.
4. Dr. Bhatt was in a position of authority as Chief of Medicine at the hospital. In this position, he should have acted as a role model to fellow physicians and staff. His behaviour indicates that he has gotten away with harassment and denigration in the workplace. The profession must strongly assert that this is unacceptable behaviour.
5. The Committee was particularly alarmed by a volunteer fundraiser's complaint that Dr. Bhatt was rude and used inappropriate language with her while complaining that

an individual donation was too small. After she wrote a letter to hospital administrators about the behaviour, Dr. Bhatt confronted the volunteer in her office.

Mitigating factors

1. This was Dr. Bhatt's first appearance before the Committee.
2. He has accepted responsibility for his actions through his plea.
3. He has saved others from the burden and strain of testifying. He has also saved the College the substantial costs of conducting a contested hearing.
4. He has ceased working on call as well as working in the ICU. These were the two most stressful aspects of his work.
5. He has been regularly meeting with his psychiatrist.
6. According to hospital staff members interviewed by the College more recently, his behaviour has improved. This demonstrates that Dr. Bhatt has the ability to display consideration and thoughtfulness to others when he so chooses.

Aggravating and mitigating factors pertaining to the events in question must be considered in determining penalty. Proportionality is an important element to be considered by the Committee.

The Committee also considered previous cases with similar facts. In *Minnes vs. CPSO* (2015), although that physician's certificate was revoked, the Committee indicated that if certain conduct toward nurses had been considered alone, a suspension of three months would have been appropriate due to mitigating factors. On the other hand, in *Carll vs. CPSO* (2002), a six-month suspension was considered appropriate due to a lack of mitigating circumstances.

The Committee felt that the jointly-submitted four month suspension for Dr. Bhatt was in keeping with the serious breaches in behaviors described in the Agreed Statement of Facts and Admission on Liability.

The Committee also received letters of support on behalf of Dr. Bhatt from physicians, nurses, the hospital board's chair, and a city councillor – all of which described the valuable contributions Dr. Bhatt can make to the medical community, provided his behaviour is monitored.

ORDER

Therefore, having stated the findings in paragraph 1 of its written order of April 4, 2016, on the matter of penalty and costs, the Committee ordered and directed that:

2. The Registrar suspend Dr. Bhatt's Certificate of Registration for a four month period effective April 8, 2016 at midnight (12:00 a.m.);
3. The Registrar impose the following terms, conditions and limitations on Dr. Bhatt's Certificate of Registration:
 - (i) In his practice at any Hospital Z site, Dr. Bhatt is only permitted to practice in the following out-patient clinics: Ambulatory Care Unit, Stroke Prevention Program and the Town W Cardiovascular Rehabilitation Program, or in any other out-patient clinic as is approved by the Chief of Staff. Dr. Bhatt may attend on patients of the above-mentioned out-patient clinics who are housed on an in-patient unit solely in his capacity as a stroke clinic physician. Dr. Bhatt is also permitted to review and report on diagnostic test results as authorized by the Chief of Staff of the hospital;
 - (ii) Dr. Bhatt will not be alone with Nurse A;

- (iii) Dr. Bhatt will advise of any new work places within ten days of starting a new position;
 - (iv) Dr. Bhatt will successfully complete the ProBE program in 2016, at his own expense, agree to abide by any recommendations of the ProBE program and provide proof of completion to the College;
 - (v) Dr. Bhatt will continue seeing his treating psychiatrist on a monthly basis for two years and will agree to abide by any recommendations made by the treating psychiatrist. The treating psychiatrist will provide quarterly reports to the College. After two years, with the approval of his treating psychiatrist, Dr. Bhatt may apply to the College to vary the frequency of his appointments; and
 - (vi) Dr. Bhatt will agree to a monitoring program, at his own expense, with a monitor appointed by the College, such monitoring to be conducted every four months for two years. The monitor will provide reports to the College following each monitoring visit. After two years, with the approval of the monitor, Dr. Bhatt may apply to the College to vary the frequency of the monitoring. Dr. Bhatt will provide consent to the monitor to speak to the Chief of Staff , staff, volunteers and physicians at Hospital Z, for the purpose of the workplace monitoring and as requested by the monitor.
4. Dr. Bhatt to appear before the panel to be reprimanded; and
5. Dr. Bhatt to pay costs to the College in the amount of \$5,000.00 within thirty (30) days of the date of this Order.

At the conclusion of the hearing, Dr. Bhatt waived his right to an appeal under subsection 70(1) of the Code and the Committee administered the public reprimand.