

NOTICE OF PUBLICATION BAN

In the College of Physicians and Surgeons of Ontario and Dr. Kwame Attuah, this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity or 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*, S.O. 1991, c. 18, as amended.

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.
Attuah, 2015 ONCPSD 6**

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

IN THE MATTER OF a Hearing directed
by the Inquiries, Complaints and Reports Committee of
the College of Physicians and Surgeons of Ontario
pursuant to 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. KWAME ATTUAH

PANEL MEMBERS:

**DR. P. POLDRE (CHAIR)
P. GIROUX
DR. P. GARFINKEL
J. LANGS
DR. W. KING**

Hearing Date: January 21, 2015
Decision Date: January 21, 2015
Release of Written Reasons: February 6, 2015

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 January 21, 2015. 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 ALLEGATION

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

1. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991*, in that he has engaged in conduct or 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.

RESPONSE TO THE ALLEGATION

Dr. Attuah admitted the allegation in the Notice of Hearing, that he has engaged in conduct or 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.

THE FACTS

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

PART I - FACTS

1. Dr. Attuah received his certificate of registration authorizing independent practice in Ontario on August 21, 1982.

2. On November 12, 2012, Dr. Attuah entered into an undertaking (the “Undertaking”), a copy of which is attached at Tab 1 [to the Agreed Statement of Facts].
3. Pursuant to the Undertaking, Dr. Attuah undertook to practice under the guidance of a Clinical Supervisor, who was acceptable to the College, and to provide a signed undertaking of an approved Clinical Supervisor to the College within 30 days of the date he executed the undertaking. Dr. Attuah executed the Undertaking on November 12, 2012 and was therefore required to have obtained a Clinical Supervisor acceptable to the College and delivered an undertaking signed by that Clinical Supervisor to the College by December 12, 2012 in order to continue to practice medicine in Ontario.
4. As of December 12, 2012, Dr. Attuah had not obtained a Clinical Supervisor acceptable to the College. Accordingly, as of December 13, 2012, he was required to cease practicing medicine in Ontario.
5. Although he was required to cease practice by December 13, 2012 and did not thereafter provide an undertaking signed by an acceptable Clinical Supervisor to the College, Dr. Attuah treated 57 patients over 33 days at Clinic 1 in February and March 2013 without being under clinical supervision. This treatment of patients included writing prescriptions for patients.
6. By treating patients at Clinic 1 in February and March, 2013, Dr. Attuah breached his Undertaking with the College.

PART II - ADMISSION

7. Dr. Attuah admits the facts contained in paragraphs 1-6 of this Agreed Statement of Facts and agrees that he engaged in an act of professional misconduct by engaging in conduct or 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.

FINDING

The Committee accepted as true all of the facts set out in the Agreed Statement of Facts and Admission. Having regard to these facts, the Committee accepted Dr. Attuah's admission and found that he committed an act of professional misconduct in that he has engaged in conduct or 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.

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 terms of the proposed order include a public reprimand and costs to the College in the amount of \$4,460.00, the tariff rate for a one-day hearing.

The Committee was mindful of the legal test that it should accept a jointly proposed penalty unless to do so would be contrary to the public interest and would bring the administration of justice into disrepute.

During submissions, the Committee was made aware of several salient facts, including:

- Dr. Attuah has been residing in Ghana since May of 2013 and is in poor health (nature unspecified);
- Dr. Attuah signed an undertaking on December 19, 2014, to resign from the College and never reapply to practise medicine in Ontario, or any other Canadian jurisdiction; and
- Dr. Attuah's OHIP billing number has been deactivated.

The Committee is of the opinion that the jointly proposed order is an appropriate penalty for several reasons.

The prime objective of any penalty is protection of the public. While the Committee is aware that Dr. Attuah has breached undertakings and orders in the past, an undertaking to resign from the College and never reapply to practise in Ontario or any other Canadian jurisdiction removes any threat that Dr. Attuah might pose to the public and will be difficult, if not impossible, to breach.

It is essential that undertakings to, and orders by, the College be followed in every particular. The privilege of self-governance accorded to the profession by the province of Ontario requires no less. The public reprimand affords the opportunity to reinforce this requirement to Dr. Attuah, and through him, to the profession as a whole and to the public.

An award of costs of \$4,460.00 to the College is, in the opinion of the Committee, appropriate. The amount represents only a fraction of the true costs of conducting an investigation and holding a hearing.

For the above reasons, the Committee found the jointly submitted penalty appropriate and made the following order:

ORDER

Therefore, having stated the findings in paragraph 1 of its written order of January 21, 2015, on the matter of penalty and costs, the Committee ordered and directed that:

2. Dr. Attuah attend before the panel to be reprimanded, with the fact of the reprimand to be recorded on the Register.
3. Dr. Attuah shall within 30 days pay the College its costs of this proceeding in the amount of \$4,460.00.

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

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B E T W E E N:

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- and -

DR. KWAME ATTUAH

PANEL MEMBERS:

**DR. P. POLDRE (CHAIR)
P. GIROUX
DR. P. GARFINKEL
J. LANGS
DR. W. KING**

Hearing Date: January 21, 2015
Decision Date: January 21, 2015
Reprimand Date: January 21, 2015
Release of Written Reasons: February 6, 2015

PUBLICATION BAN

TEXT of PUBLIC REPRIMAND
Delivered January 21, 2015
in the case of the
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO
and
DR. KWAME ATTUAH

I will then read the reprimand.

Dr. Attuah, the Discipline Committee recognizes the personal health related reason for your absence from this hearing and the delivery of this reprimand. Notwithstanding your deliberate disregard of your personal undertaking to your regulatory authority must be condemned as unprofessional and shameful.

Undertakings are intended to protect the public and breaches of undertakings are therefore a risk to the public. The public and the profession expect respect for the privilege of self-regulation. Your actions have significantly undermined that privilege.

That concludes the reprimand and it concludes this hearing.