

**Indexed as: Ontario (College of Physicians and Surgeons of Ontario) v.
Achiume, 2015 ONCPSD 4**

**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. JORDAN KIRKWOOD MZOMA ACHIUME

PANEL MEMBERS:

DR. M. DAVIE (CHAIR)
D. GIAMPIETRI
DR. F. SLIWIN
DR. E. ATTIA (Ph.D.)
DR. B. LENT

Hearing Date:	December 18, 2014
Decision Date:	December 18, 2014
Release of Written Reasons:	January 20, 2015

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 December 18, 2014. 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. Achiume committed an act of professional misconduct:

1. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), 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. Achiume 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 facts were set out in an Agreed Statement of Facts and Admission that was filed as an exhibit and presented to the Committee:

PART I - FACTS

1. Dr. Achiume received his certificate of registration authorizing independent practice in Ontario in 1967. On March 4, 2014, terms and conditions were placed on Dr. Achiume’s certificate of registration by order of the College of Physicians and

Surgeons' ("the College") Quality Assurance Committee. The order is attached at Tab 1 [to this Agreed Statement of Facts]. Dr. Achiume currently practises in Cambridge subject to those terms and conditions.

2. On January 13, 2010, the Inquiries, Complaints and Reports Committee ("ICRC") issued a decision regarding an investigation commenced under s. 75(b) of the Health Professions Procedural Code. The Committee concluded that it had "significant concerns regarding Dr. Achiume's record-keeping". It ordered Dr. Achiume to complete a specified continuing education or remediation program (SCERP) in medical record-keeping between June and December 2010. The ICRC decision is attached at Tab 2 [to this Agreed Statement of Facts].
3. Dr. Achiume was advised of the ICRC decision by letter dated March 17, 2010. The letter is attached at Tab 3 [to this Agreed Statement of Facts].
4. In a November 15, 2013 letter to Dr. Achiume, the College advised him that the College's records indicated that he had still not attended the medical record-keeping course. The College asked Dr. Achiume for a response by November 29, 2013, but none was ever received. The letter is attached at Tab 4 [to this Agreed Statement of Facts].
5. In a January 26, 2014 letter, the College advised Dr. Achiume that it was apparent he had still not complied with the January 2010 SCERP order, and had not provided any explanation for his failure to do so. He was informed that the matter would be considered "shortly" by the ICRC, and that the Committee "may decide to take action in relation to this matter including referring specified allegations of professional misconduct to the Discipline Committee on the basis of your apparent failure to comply with the Order". The letter is attached at Tab 5 [to this Agreed Statement of Facts].

6. As of February 19, 2014, Dr. Achiume had not completed a medical record-keeping course approved by the College. Accordingly, the ICRC referred the matter to the Discipline Committee, and a notice of hearing was issued on February 19, 2014.
7. As of the date of this hearing, Dr. Achiume has completed the in-class portion of the medical record-keeping course offered by the University of Toronto. He is scheduled to complete the practical component of the course by January 30, 2015.

PART II – ADMISSION

8. Dr. Achiume admits the facts contained in paragraphs 1-7 of this Agreed Statement of Facts and agrees that by failing to comply with the January 2010 order of the ICRC requiring that he complete a SCERP in medical record-keeping, 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. Dr. Achiume acknowledged that he had not complied with the ICRC's January 2010 order, nor had he provided a reasonable and timely explanation for his failure to do so. Having regard to these facts, the Committee accepted Dr. Achiume'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.

AGREED STATEMENT OF FACTS ON PENALTY

The following facts were set out in an Agreed Statement of Facts On Penalty and presented to the Committee:

PART I – PREVIOUS DISCIPLINE COMMITTEE DECISIONS

1. There have been prior College Discipline Committee findings against Dr. Achiume. These are the following:
 - On July 24, 1986, Dr. Achiume pleaded guilty to allegation of professional misconduct – there was a failure to maintain the standard of practice.
 - On May 21, 1991, the Discipline Committee found Dr. Achiume guilty of professional misconduct – sexual impropriety with a patient. He was reprimanded and his certificate of registration was suspended for four months.
 - On May 21, 1993, Dr. Achiume pleaded guilty to professional misconduct. He admitted to making improper use of the authority to prescribe, sell or dispense a drug, including falsifying a record in respect of a prescription or the sale of a drug. His certificate of registration was suspended for six months, three months of which was suspended on completion of a prescribing course by October 31, 1993.

PART II – PROPOSED PENALTY

2. The parties agree that the appropriate penalty for Dr. Achiume's failure to comply with the ICRC direction is the following:
 - (a) Dr. Achiume must appear before the Discipline Committee and be reprimanded;
 - (b) The Registrar will direct that Dr. Achiume's certificate of registration will be suspended starting January 15, 2015, until the later of:
 - (i) February 15, 2015; or
 - (ii) until Dr. Achiume has provided to the College proof of his compliance with the Specified Continuing Education and Remediation Program in medical record-keeping directed by the Inquiries, Complaints and Reports Committee in its January 13, 2010 decision.

- (c) Dr. Achiume must pay costs to the College in the amount of \$4,460 within one year from the date of this Order, pursuant to a payment plan, as ordered by the Discipline Committee.

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.

Counsel for the College made submissions to the Committee about the guiding principles which apply with respect to penalty. The penalty should be commensurate with the behaviour in question and consistent with penalties ordered in similar cases, should they exist. The penalty must reflect the need for the College to maintain public trust and to demonstrate that the profession is able to regulate itself in a meaningful way. In addition, a penalty should include an element of specific and general deterrence, as well as provide rehabilitation for the member, if relevant.

Independent legal counsel reminded the Committee that when a joint submission is made with respect to penalty, the Committee must accept the proposed penalty unless to do so would be contrary to the public interest and would bring the administration of justice into disrepute.

College counsel noted that there were no previous cases where the issue was a breach of an ICRC order for a SCERP.

With respect to aggravating factors, College counsel asked the Committee to consider in its deliberations that this was not Dr. Achiume's first appearance before the Discipline Committee. He has been disciplined on three previous occasions, all in the 1990's, albeit for serious findings unrelated to the present one.

With respect to mitigating factors, College counsel submitted that Dr. Achiume's admission to the allegations obviated the need for a contested hearing with its incumbent time and resources. The Committee did note however that the whole matter could have been avoided if Dr. Achiume had complied with ICRC's order earlier or if he had

provided a timely and reasonable explanation for his delay. In addition, Dr. Achiume has agreed to pay costs in the amount of \$4,460.00, which will partly cover the costs of this proceeding.

Counsel for Dr. Achiume informed the Committee that he has been in practise since 1967, with a large patient population, and reminded the Committee that despite Dr. Achiume's previous involvement with Discipline, these events all occurred in the early 1990's for behaviours unrelated to the present issues. Dr. Achiume has begun the required medical record-keeping course, and as part of a March 2014 order of the Quality Assurance Committee, he currently has a supervisor reviewing his records in order to discuss the care and treatment plans.

Counsel for Dr. Achiume suggested that his non-compliance was related to a misunderstanding of College processes. Dr. Achiume's practice was assessed as part of a Quality Assurance (QA) initiative for physicians over the age of 70. Counsel suggested that Dr. Achiume did not appreciate that the QA process was a separate process from the ICRC process which commenced in 2009. This was clearly a mistaken assumption. The Committee was not persuaded by this suggestion, as no evidence was presented to support this explanation and because of Dr. Achiume's persistent and prolonged non-response to the ICRC order, which he knew about for more than a year prior to the start of the QA practice assessment.

The Committee understands how critical it is that physicians practicing in Ontario recognize and respect the obligations of the College to regulate physicians in order to promote and ensure patient safety. The Committee feels strongly that, in order to maintain public trust, it must insist on strict compliance by physicians with orders from any and all College committees. The Discipline Committee was dismayed at Dr. Achiume's persistent disregard for the authority of the Inquiries, Complaints and Reports Committee and his failure to respond to College inquiries in a timely manner. The Committee found it incomprehensible that he would allow this situation to go on for such a lengthy period to the point that the matter had to be escalated to Discipline.

The Committee accepts that the proposed penalty will meet the relevant guiding principles in the circumstances of this case. Through the public reprimand, the Committee expresses its dismay and disappointment that Dr. Achiume would demonstrate such disregard for the authority of the College, particularly at this stage of his career. The Committee notes that the suspension of Dr. Achiume's certificate of registration will provide specific deterrence as he will need to complete the Specified Continuing Education and Remediation Program in medical record-keeping in order to maintain his clinical practice. The proposed penalty will meet the need for general deterrence, by indicating to the profession that breaches of ICRC orders will not be permitted, and will help to maintain public trust by demonstrating that disregard of the College's authority will not be tolerated.

ORDER

Therefore, having stated its findings in paragraph 1 of its written order of December 18, 2014, the Committee on the matter of penalty and costs, ordered and directed that:

2. Dr. Achiume appear before the panel to be reprimanded.
3. the Registrar suspend Dr. Achiume's certificate of registration commencing January 15, 2015, until the later of:
 - (a) February 15, 2015; or
 - (b) until Dr. Achiume has provided to the College proof of his compliance with the Specified Continuing Education and Remediation Program in medical record-keeping directed by the Inquiries, Complaints and Reports Committee in its January 13, 2010 decision.
4. Dr. Achiume to pay costs to the College in the amount of \$4,460, pursuant to a payment plan, which requires Dr. Achiume to pay \$371.67 per month, commencing February 1, 2015, until the full amount is paid in full. At the conclusion of the hearing, Dr. Achiume waived his right to an appeal under subsection 70(1) of the Code and the Committee administered the public reprimand.

At the conclusion of the hearing, Dr. Achiume 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:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. JORDAN KIRKWOOD MZOMA ACHIUME

PANEL MEMBERS:

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DR. B. LENT

Hearing Date:	December 18, 2014
Decision Date:	December 18, 2014
Reprimand Date:	December 18, 2014
Release of Written Reasons:	January 20, 2015

TEXT of PUBLIC REPRIMAND
Delivered December 18, 2014
in the case of the
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO
and
DR. JORDAN KIRKWOOD MZOMA ACHIUME

The Panel is extremely disappointed to learn that you are here today because of a failure to meet the requirements of an order of this College. The practise of medicine, as you should know by this stage in your career, is a great privilege.

Self-governance of our profession is completely dependent on our member's respect for the process. In the opinion of the Committee you flouted the authority of your governing body over a protracted period of time, and that this conduct cannot be tolerated. And for this reason your Certificate of Registration will be suspended again.

We sincerely hope that after the completion of the record-keeping course and also with ongoing supervision of your practice, as per the Order of the ICRC, that you will complete the twilight of your career without appearing before us again. You may be seated.