

COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA
SUMMARY OF DECISION OF INVESTIGATION COMMITTEE “C”

Dr. Oluwarotimi Fashoranti

OVERVIEW

Dr. Oluwarotimi Fashoranti is a physician, licensed to practise medicine in Nova Scotia since 1993 intermittently. Dr. Fashoranti is a family physician. His licence number is 010984.

Between September 2015 and June 2016 the College received three complaints regarding Dr. Fashoranti. While each of the complaints related to separate allegations, the complaints, in addition to Dr. Fashoranti’s disciplinary history with the College, collectively raised significant concerns about whether Dr. Fashoranti is governable in the medical profession. The Committee was concerned that these complaints, along with past disciplinary matters against Dr. Fashoranti, show a significant pattern of noncompliance and adherence to College Guidelines and Standards.

Each of the three complaints are briefly outlined below:

Complaint 1: Dr. Gus Grant, Registrar & CEO, CPSNS

In his complaint letter of September 11, 2015, Dr. Grant refers to a letter received from the Worker’s Compensation Board (WCB) regarding Mr. X. According to WCB, Dr. Fashoranti had not provided the medical information necessary to adjudicate the claim of his patient X. WCB made requests for this information on July 8, 2015, July 27, 2015, August 11, 2015 and September 1, 2015.

In his response letter of December 4, 2015 Dr. Fashoranti states he believes a miscommunication occurred during the summer which caused a delay in forwarding the requested records to WCB. In a conversation with a WCB case worker, Dr. Fashoranti reported he had not yet arrived at a definite diagnosis because he did not have the records from Mr. X’s previous physician. Dr. Fashoranti reports he told the case worker he would request another physician’s records and send these along with his own once received.

Dr. Fashoranti reports he began a three month suspension for an unrelated College matter in early September of that year. He states he was only given a day’s notice regarding the effective date of the suspension. Dr. Fashoranti was out of country through much of September and October when legal counsel for WCB wrote to him to reiterate the case worker’s requests. Dr. Fashoranti received the letter upon his return but was of the understanding that he should not communicate with WCB as he was still serving his suspension.

Complaint 2: Mr. Y

In his complaint letter of November 9, 2015, Mr. Y states he requested Dr. Fashoranti complete a medical report for his disability claim on June 1, 2015. Mr. Y was charged \$150.00 which was

paid by Blue Cross. Mr. Y reports when Blue Cross requested a follow-up report, it was not completed by Dr. Fashoranti.

Mr. Y reports Dr. Fashoranti also entered incorrect information on the original form.

Mr. Y contacted Dr. Fashoranti on November 16, 2015. The follow up form was still not completed. Dr. Fashoranti informed Mr. Y that he should have another physician fill out the form. Mr. Y reports due to this delay, his file claim was closed as of November 27, 2015 and he did not have monies paid out to him. Mr. Y reports he had to go bankrupt due to this form not being completed.

In his response letter of January 20, 2016, Dr. Fashoranti states he did not receive money from Blue Cross on behalf of Mr. Y. Dr. Fashoranti reports Mr. Y owes him money for other forms completed and he is contemplating suing Mr. Y for defamation of character.

Dr. Fashoranti states Mr. Y's report was sent to Blue Cross in November 2015. The delay in sending the report stemmed from Mr. Y informing Blue Cross he was being treated for a certain illness. Dr. Fashoranti had to check the archive records to confirm or deny what Mr. Y had told Blue Cross. After further investigation, it was confirmed he did not have this certain illness.

Dr. Fashoranti states Mr. Y was managed for certain other illnesses. Dr. Fashoranti says he made required referrals.

Dr. Fashoranti states Mr. Y did not take his medication as prescribed. He informed Dr. Fashoranti he was having a reaction to the medication and refused all attempts to start him on a new medication while waiting for an appointment.

Dr. Fashoranti further responded on January 26, 2016 to inform the College that he received payment on January 19, 2016 from Blue Cross for the report completed for Mr. Y in the amount of \$200.00.

Complaint 3: Dr. Gus Grant, Registrar & CEO, CPSNS

In his complaint letter of June 17, 2016, Dr. Grant expressed concern that Dr. Fashoranti repeatedly delays or ignores requests from the College. As stated in Section 30(2) of the *Medical Act* "a member has a duty to cooperate with the College in the conduct of its professional conduct processes." The Act further states that failure to do so may be grounds for a finding of professional misconduct.

In reference to Dr. Grant's noted concern, he provided communication from the compliance officer at the College of Physicians and Surgeons of Nova Scotia. The compliance officer had interactions with Dr. Fashoranti in the context of follow-up required by the College as part of a signed agreement with Dr. Fashoranti for a previous College decision.

The compliance officer provided a summary of dates in which the College had attempted to contact Dr. Fashoranti for the purposes of receiving confirmation regarding the required courses

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Dr. Fashoranti had agreed to take. The compliance officer also noted concerns with receiving a response regarding scheduling for direct observations and audits.

In his response letter of August 2, 2016, Dr. Fashoranti states he does not believe he has delayed or ignored communications from the College during the relevant time period. Dr. Fashoranti states he certainly has not done so intentionally.

Dr. Fashoranti reports he believes Dr. Grant's concerns arise from not having complete information on some of the interactions Dr. Fashoranti has had with the College. Dr. Fashoranti believes he has cooperated extensively with the College since 2015. Dr. Fashoranti states there are only two interactions which may appear to be delays but were actually caused by him travelling at the time of the requests.

The relevant communications regarding the registration for the boundaries course span between September 11, 2015 and October 1, 2015. Dr. Fashoranti states he was placed on suspension in early September and given one day's notice to close his practice by September 8, 2015. Dr. Fashoranti embarked on a lengthy trip to Ontario a few days after his suspension began. He was therefore not in office or available to respond to the compliance officer's email. Dr. Fashoranti's lawyer got in touch with him by telephone and Dr. Fashoranti then made the necessary arrangements and instructed his lawyer to confirm he had registered for the course. Dr. Fashoranti states the necessary information was provided despite being in the midst of travelling and after being suspended on short notice.

With respect to the request for a Certificate of Attendance of the Boundary course, Dr. Fashoranti reports he was in full cooperation with the College in attending the Boundary course at the University of Western Ontario on October 16-17, 2015. Dr. Fashoranti reports not long after his return to Halifax, he embarked on a trip to Nigeria as he was still suspended from practice. During his absence, it appears the compliance officer attempted to contact Dr. Fashoranti by email with a copy to his lawyer requesting the Certificate of attendance.

On November 6, 2015 the lawyer responded to the Compliance Officer explaining Dr. Fashoranti was travelling out of country and would obtain and provide the certificate upon his return. Dr. Fashoranti reports it would be virtually impossible to deal with a matter like this, involving the University of Western Ontario and email correspondence from Nigeria.

Dr. Fashoranti reports it appears Dr. Graham Bullock, Medical Director, Physician Performance Department, communicated with Dr. Gus Grant that the Physician Performance Department had not been able to confirm with Dr. Fashoranti that he attended the Understanding Boundaries course. The summary provided by the compliance officer does not indicate Dr. Grant had been made aware that Dr. Fashoranti's lawyer had already been in touch to advise Dr. Fashoranti was travelling out of country and that a certificate would be provided. Dr. Fashoranti reports it does not appear that any effort to follow up with his lawyer was made before making these comments to Dr. Grant.

Dr. Fashoranti states this left Dr. Grant with the understandable, but incorrect, impression that the Physician Performance Department had been ignored. Upon his return, Dr. Fashoranti began the

process of getting organized for a restart to his practice, including review of correspondence and dealing with urgent matters. Dr. Fashoranti wrote to the University of Western Ontario and provided written consent to disclosure of information. The Physician Performance Department received the information on December 7, 2015.

With respect to scheduling with the College assessor, Dr. Fashoranti states the compliance officer sent an email requesting schedule details for completing the observation. This required some analysis of the types of patients available and whether this would include hospital patients. Dr. Fashoranti reports although he began scheduling he had not responded by Thursday morning when the compliance officer sent a follow-up email. Dr. Fashoranti telephoned the compliance office and requested an extension to look at it over the weekend and respond on Monday April 25, 2016. The compliance officer agreed to this arrangement.

Dr. Fashoranti was unwell for the entire weekend. On Monday April 25, he had patients and therefore did not have time to pull together the required information. On April 26th, Dr. Fashoranti spoke with Dr. Graham Bullock by telephone and advised of his illness. Dr. Fashoranti reports he provided the information on April 27, 2016.

Dr. Fashoranti reports unfortunately despite his phone call to Dr. Bullock, it appears he reported to Dr. Grant that he did not respond to the request. Dr. Fashoranti reports it is not clear Dr. Grant was made aware of his illness or the fact he provided the required information the following day.

Dr. Fashoranti reports that even considering the fact he was ill for 23 days and carrying on a busy practice by himself, the entire matter related to observer scheduling was resolved in less than two weeks. Dr. Fashoranti states it can hardly be said he ignored or failed to respond to the Physician Performance Department.

Dr. Fashoranti reports it is difficult to provide requested information within a few hours or even a few days. Dr. Fashoranti reports he has tried to cooperate in the many interactions with the Physician Performance and Investigation Departments over the past year. He has gone on to schedule and be available for two observerships without difficulty.

With respect to the post boundary workshop assessment request, Dr. Fashoranti reports the compliance officer made a request for his post workshop assessment on May 2, 2016. Dr. Fashoranti had already communicated with the University of Western Ontario that they were permitted to communicate with the College. On May 3, 2016, Western advised the compliance officer that Dr. Fashoranti had not yet completed the post workshop assessment. Dr. Fashoranti had received an extension for completing the assignment.

Dr. Fashoranti reports he did not think he needed to inform the College that he had received an extension since they knew he had taken the course. Dr. Fashoranti reports he completed the assessment over the next few days and forwarded to Western Ontario. Dr. Fashoranti states it appears Western Ontario did not immediately confirm this to the compliance officer who followed up with them on May 12, 2016.

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Dr. Fashoranti reports it is difficult to see how this information request could have been dealt with much faster than it was. He immediately dealt with it and forwarded the information to Western Ontario in one week. Dr. Fashoranti reports it seems to him that 12 weeks was a reasonable period of time and the compliance officer could have telephoned him.

With respect to the confirmation of observation dates, Dr. Fashoranti reports the compliance officer contacted him on Friday May 13, 2016 by email to advise an observership date of May 20, 2016. On Monday May 16th, Dr. Fashoranti responded to the request and confirmed his availability. Dr. Fashoranti reports he responded within one business day but it is unfortunate the compliance officer left his communication out of the summary provided to Dr. Grant.

Dr. Fashoranti reports he has made efforts to be cooperative with all offices of the College and will continue to do so. Some examples of this cooperation include:

- Closed busy practice on one day's notice
- Responded to three complaints
- Enrolled in and took boundary course at University of Western Ontario
- Enrolled in and took records course at the University of Ontario
- Underwent chart audit
- Underwent two practice observerships on two separate days
- Paid cost of \$3500 by deadline
- Met with Investigations Committees
- Provided copies of passports and other travel documents
- Provided copies of telephone records
- Frequent email and telephone discussions with the compliance officer and legal counsel
- Implemented and observed various practice restrictions
- Engaged in extensive email communications with his observer regarding scheduling and then rescheduling (at his request) a second observation.

SUMMARY OF INVESTIGATION AND REVIEW BY COMMITTEE

Complaint 1: Dr. Gus Grant, Registrar & CEO, CPSNS

A copy of the complaint was mailed to Dr. Fashoranti on September 11, 2015. A response was not received within the 30 day timeline. A first reminder was sent to Dr. Fashoranti on October 26, 2015 by courier with requested response date of November 8, 2015. A second reminder was couriered on November 23, 2015 with requested response date of December 4, 2015.

In Dr. Fashoranti's response, he advised he had two phone calls with WCB in July 2015 advising of the reason for his delay and letting them know when they could expect to receive the information.

Following receipt of Dr. Fashoranti's response on December 4, 2015, the College requested a copy of the call logs from WCB to confirm dates of communication between the case worker and Dr. Fashoranti. The WCB records indicate only one phone call took place on June 24, 2015. This

information contradicts Dr. Fashoranti's response which indicated 2 calls took place in the month of July regarding the delay of sending the medical chart to WCB.

The file was referred to Investigation Committee C on March 22, 2016. To further clarify the dates in which Dr. Fashoranti had indicated he was away and had not received WCB correspondences, Investigation Committee C requested Dr. Fashoranti provide passport stamps between July 1, 2015 and December 1, 2015.

Dr. Fashoranti provided proof of the following travel:

- August 25, 2015- admission to the United States
- August 26, 2015- admission to Ireland
- September 1, 2015- readmission to the United States (via Newark)
- October 15, 2015- flight to Ontario
- October 17, 2015- return to Nova Scotia
- October 23, 2015- admission to the United States (en route to Nigeria)
- November 11, 2015- return from Nigeria to Nova Scotia

In his letter to the Committee dated April 29, 2016, Dr. Fashoranti indicated he had made an error in his response letter to the College dated December 4, 2015. He had indicated he was out of country during much of September and into October. Dr. Fashoranti states he was actually out of province during this time period visiting family in Ontario. He indicates he is unable to provide flight itinerary information for this time period as he drove to Ontario for this trip.

Dr. Fashoranti also provided phone records for the months of June, July, and August 2015. This included records for three separate phone numbers that he uses. The records reflected 11 calls to WCB in this time frame. However, Dr. Fashoranti indicates the calls are likely in relation to other patients as well and more than one patient may have been discussed in the same phone call. Dr. Fashoranti also stated that although there was no record of a call to WCB on July 24, 2015, he believed he had spoken to someone and perhaps it was an incoming call or the call occurred via the patient's telephone. Dr. Fashoranti does recall the patient being present for at least two phone calls he had with WCB.

The Committee interviewed Dr. Fashoranti on May 3, 2016. Dr. Fashoranti stated to the Committee that he had done his best in corresponding with WCB but was under a lot of stress at that time and could have done better.

Dr. Fashoranti indicated he had returned to work on September 2, 2015 following vacation. Although the letter from WCB legal counsel was sent and received by that time but he was unable to get to it. On September 4, 2015 Dr. Fashoranti received a letter from Supreme Court indicating his application had been denied and his license suspension would proceed.

As a third complaint was received by the College and expedited to Investigation Committee C for review, this file was deferred while further investigation occurred.

Complaint 2: Mr. Y

A copy of the complaint was mailed to Dr. Fashoranti on November 23, 2015. A response was not received within the 30 day timeline. A first reminder was sent to Dr. Fashoranti on January 4, 2016 by courier with a requested response date of January 18, 2016. Dr. Fashoranti's response was received on January 20, 2016.

The complaint file was referred to Investigation Committee C at its March 22, 2016 meeting. Dr. Fashoranti was interviewed by the Committee at their following meeting held on May 3, 2016. During the interview, the Committee inquired further on why Dr. Fashoranti would indicate in his response letter that he was contemplating suing Mr. Y for defamation of character knowing the letter would be shared with Mr. Y.

Dr. Fashoranti stated he wrote this because none of the things Mr. Y said in his letters were true. Dr. Fashoranti pointed out the following inconsistencies in Mr. Y's letter:

- Dr. Fashoranti had not received monies from Blue Cross at that time (although had received funds following the time of the complaint on January 18, 2016)
- Mr. Y had not communicated with Dr. Fashoranti directly but rather his secretary had spoken with Mr. Y
- During an appointment on September 8, 2015, Mr. Y had given Dr. Fashoranti the impression he was going back to work and had him sign paperwork for such. Due to this information, Dr. Fashoranti had believed he no longer needed to fill out the claim form for disability.

As a third complaint was received by the College and expedited to Investigation Committee C for review, this file was deferred while further investigation occurred.

Complaint 3: Dr. Gus Grant, Registrar & CEO, CPSNS

A copy of the complaint was mailed to Dr. Fashoranti on June 21, 2016. A response was received on August 3, 2016.

A further letter was shared with Investigation Committee C from Dr. Gus Grant addressed to Dr. Fashoranti. The letter indicated there had been delays in arranging the observerships for a variety of reasons. The first observership took place on May 20, 2016 and an invoice was sent to Dr. Fashoranti on May 31, 2016. The due date for payment was July 8, 2016. A courtesy call from the College was made to Dr. Fashoranti on July 14, 2016 as payment had not been received.

Dr. Gus Grant stated he considered nonpayment to be a breach of the conditions set out in a previous decision that Dr. Fashoranti had agreed to. Furthermore, Dr. Grant indicated the failure to honour the invoice in a timely and professional manner speaks to Dr. Fashoranti's governability in the province of Nova Scotia. A new payment date of August 17, 2016 was set out with the expectation of formal action being taken if payment was not received. Payment was received August 15, 2016.

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Dr. Fashoranti was invited to meet with Investigation Committee C at their September 13, 2016 meeting. During the interview, Dr. Fashoranti expressed frustration at coming before the Committee again and indicated he felt they already had their minds made up regarding him.

Dr. Fashoranti stated he does not choose email as a mode of communication when asked by the College. He prefers to be communicated by way of letter. He further indicated it sometimes takes him a lot of time to respond because he is very busy. Dr. Fashoranti indicated he does have email on his phone but does not typically check it. It sometimes takes a week or two before he checks emails.

He does not feel it is fair for the College to state it is professional misconduct when it takes two to five days to respond by email. He also reminded the College he receives various modes of communication from different members from the College.

Dr. Fashoranti also expressed frustration at the amount of funds it has cost him to pay towards the College for past investigations and follow-up requirements. He indicated he was delayed in the payment to the College as he had no funds at that time to pay on top of his other life expenses.

Dr. Fashoranti's legal counsel also expressed concern that the Committee may not have all information available regarding current communications between the College and Dr. Fashoranti that could show Dr. Fashoranti had been in compliance with College requirements. The Committee agreed to review the information once provided by legal counsel. Legal counsel also indicated the delays in scheduling observerships were the indirect fault of the observer due to a medical injury.

The Committee questioned Dr. Fashoranti regarding timelines of the boundary course that had been taken. Dr. Fashoranti stated he had been given an extension to fill out the three month form (due in March 2016) following the course but had not informed the College as his decision had been with Western University. No date was provided by Western University as a due date. Western University had followed up with Dr. Fashoranti and he had completed the form within a few days (in the month of May, 2016) of that follow-up call.

The College obtained proper documentation of attendance and completion of the boundaries course from Western University by December 7, 2016.

During the interview, Dr. Fashoranti interrupted the discussion to make a phone call to request his daughter fax the information the Committee inquired about to the College. As the interview attempted to proceed, Dr. Fashoranti answered a phone call from his daughter to clarify where the documentation could be found. The Committee expressed concern about the disruptions and indicated the information did not need to be obtained at that exact moment and could be sent at a later date. The Committee was concerned with Dr. Fashoranti's lack of engagement during this interview and respect for the Committee's time and attention.

The Committee requested clarification regarding the delay in responding to the College regarding scheduling the observerships. Legal Counsel indicated there were second and third party confirmations that needed to occur within the hospital and nursing home before Dr. Fashoranti

could confirm with the College. Legal Counsel further indicated that Dr. Fashoranti has shown a pattern of compliance following the arrangement of observations, audit and completion of courses.

Following the interview, both the compliance officer and legal counsel provided further information regarding communications between the Compliance Office of the College and Dr. Fashoranti. The Committee also were provided with copies of the three observations reports and audit for review.

The audit found Dr. Fashoranti was providing adequate care to his patients. The auditor also noted Dr. Fashoranti's medical records were well documented and organized. The auditor did find Dr. Fashoranti could improve medication quantities documentation within the EMR. The observer also noted good patient care.

The Committee wrote to Dr. Fashoranti on November 30, 2016. They requested clarification regarding female intimate examinations for which Dr. Fashoranti's is required to have a chaperone present, and Dr. Fashoranti's current state regarding hospital privileges. Dr. Fashoranti wrote back on December 22, 2016 and indicated he typically refers female patients to the Women's Wellness clinic located in the hospital. Reports are then sent back to Dr. Fashoranti following the examinations.

If a female intimate examination needs to occur in his office, his secretary is offered as a chaperone if the patient does not have an adult family member they would prefer to use. Dr. Fashoranti also indicated he does not currently have hospital privileges. He chose not to renew his privileges when they came up for renewal following his suspension.

DISCUSSION

The Committee has significant concerns regarding Dr. Fashoranti's ability to cooperate in a timely manner with the College. The Committee feels the timelines imposed on Dr. Fashoranti for complying with College requests were reasonable. The Committee expects Dr. Fashoranti to communicate with the College directly if he is unable to meet the timelines set out for him. The Committee expects Dr. Fashoranti to communicate in a consistent manner whether it be by mail, email or fax.

The Committee notes that during Dr. Fashoranti's extended absences from office (vacation/suspension) there was no mechanism to review incoming correspondences and lab data. The Committee feels that this lack of oversight compromises patient care. The Committee also feels Dr. Fashoranti is reluctant to take responsibility for the situations that have occurred. The Committee could find no valid reason why response to the WCB request and College complaint were markedly delayed.

The Committee is also concerned with the tone and content of Dr. Fashoranti's response to the complaint of Mr. Y. The Committee views the response as a threat to the complainant. The Committee is further concerned with the delay in responding to the third party request. This created a significant financial hardship on this patient that Dr. Fashoranti would have been aware of.

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These above noted concerns, along with an extensive complaint history with the College stemming mainly from 2010 to present, give great concern to the Committee regarding Dr. Fashoranti's ability to be governed within the medical profession. The Committee reminds Dr. Fashoranti of the necessity of complying with the governing body of his profession and adhering to the Standards and Guidelines as set out on the College website.

DECISION

In accordance with clause 99(5)(f) of the regulations under the *Medical Act*, the Committee has determined there is sufficient evidence that, if proven, would constitute professional misconduct on the part of Dr. Fashoranti, of such a kind as to warrant a licensing sanction.

Rather than refer the matter to a hearing, the Committee has determined that the matters can be resolved with the consent of Dr. Fashoranti to the following:

- Dr. Fashoranti is reprimanded for failing to cooperate with the College in a respectful and timely fashion.
- Dr. Fashoranti is reprimanded for attempting to influence a complainant in the course of an investigation.
- Dr. Fashoranti is reprimanded for not completing third party requests in a timely manner that does not disadvantage the patient.
- Payment of costs in a manner agreed upon with the College.

In the event Dr. Fashoranti does not make required payments for costs, his license shall be suspended or denied renewal until such time as all payments are brought up to date.

In this matter, Dr. Fashoranti has acknowledged his obligation to cooperate with the College and reply to communications in a timely and consistent manner. The Committee was satisfied that the warning set out in the above Reprimand is sufficient to ensure the inappropriate actions of Dr. Fashoranti will not be repeated.

Finally, Dr. Fashoranti was reminded that all of his actions in practice are guided by the Canadian Medical Association's Code of Ethics. He was advised to review the Code to ensure compliance.