



Dr. Boniface LUBEGA

Council Decision

Date Charge(s) Laid:	January 10, 2017
Outcome Date:	September 29, 2017
Hearing:	September 29, 2017
Disposition:	Reprimand, Costs, Ethics Course

The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Boniface Lubega pursuant to **The Medical Profession Act, 1981**:

- 1) Pursuant to Section 54(1)(e) of *The Medical Profession Act, 1981*, the Council hereby reprimands Dr. Lubega. The format of that reprimand to be determined by the Council;
- 2) Pursuant to section 54(1)(g) of *The Medical Profession Act, 1981*, Council requires that Dr. Lubega successfully complete an ethics course on professionalism to the satisfaction of the Registrar. Such course shall be completed at the first available date. The programs “Medical Ethics, Boundaries and Professionalism” by Case Western Reserve University, “Probe Program” by CPEP and “Medical Ethics and Professionalism” by Professional Boundaries Inc., are ethics programs acceptable to the Registrar.
- 3) Pursuant to section 54(1)(i) of *The Medical Profession Act, 1981*, the Council directs Dr. Lubega to pay the costs of and incidental to the investigation and hearing in the amount of \$2,820. Such payment shall be made in full by 28 November, 2017.
- 4) Pursuant to section 54(2) of *The Medical Profession Act, 1981*, if Dr. Lubega should fail to pay the costs as required by paragraph 3, Dr. Lubega’s licence shall be suspended until the costs are paid in full.
- 5) The Council reserves to itself the right to reconsider and amend the time within which payment of costs must be made set out in paragraph 3 and the right to reconsider and amend the requirements of the retraining or education set out in paragraph 2. Such reconsideration shall only be done if requested by Dr. Lubega.

In The Matter of the Medical Profession Act, 1981, s.s. 1980-81, c. M-10.10, Penalty Hearing for Dr. Boniface Lubega

Mr. Chris Mason appearing for the Registrar

Ms. Marie K. Stack appearing for Dr. B. Lubega

On this day September 29 2017 in Saskatoon Saskatchewan

The Charges

[1] Dr. Lubega pled guilty to the following charges set out below.

*You Dr. Boniface Lubega are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of section 46(o) and/or 46(p) of **The Medical Profession Act, 1981 s.s. 1980-81 c. M-10.10 and/or bylaw 7.1(c) and paragraph 48 and/or paragraph 52 of bylaw 7.1(g).***

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

a) On or September 25, 2016 you sent an email message to Dr. Swica which stated the following, or used similar words:

IDIOT POLISH GHOST You walk in collidors groaning like a ghost, because yuo are one and all nurses laugh when they hear you plus swallowing your fecal sputum loud. then you think you are normal. when you came here you tried to befriend a nurse who had been my girlfriend and she rejected you. you thought giving \$1000 means a lot here yet real men give \$5000 monthly and they dont feel it. you dont belong to this society . Take your idiocy and poverty where you came from

b) On or September 25, 2016 you sent an email message to Dr. Swica which stated the following, or used similar words: IDIOT you know you are the POLISHHIII GHOST that invaded Saskatchewan and you are smeling worse than feaces. no wonder you keep of talking ghost because you are a ghost. yuo belong to pizza where you worked most of your life, you are a shame to mix with us in academic world. When you came here nobody could stand your smell both from mouth and your anus. you are a ghost and a real idiot. You said you get \$1000 a month and it is wonderful. your wife sits at home waiting for ghost to send \$3000 for the whole month. my wife earns 40% of my salary and our family income is well over \$50,000.00 every month. my oversees income is well over \$20,000.00 every month. Dont think you are in same category like me. You are poor and will never catch up with me whatever you do . poverty is your main problem on addition to idiocy.

c) *On or September 25, 2016 you sent an email message to Dr. Swica which stated the following, or used similar words:* IDIOT i can stand feaces better than you. You are worse than feaces. I just cant stand you IDIOT. Dont ever think of talking to me again idiot. You will never change the days i have booked idiot. You idiot bring the calendre and fill your days before others and now you are talking like a real idiot. Why dont you do your Garcia slate tomorrow, Why do you want me to help you because of lack of competence. I can help anybody and has done so many times but i dont want to help an IDIOT LIKE YOU.

d) *On or September 25, 2016 you sent an email message to Dr. Swica which stated the following, or used similar words:* IDIOT we came looking for you. You were not in your condo but found you inOR. If i found you in anesthesia office you would have reached your destiny by now. we shall find you. observed your movements for past 10 months and as long as you in Saskatchewan we shall find you

e) *On or September 25, 2016 you sent an email message to Dr. Swica which stated the following, or used similar words:* IDIOT SWICA I WILL BEAT YOU UP IF YOU BRING YOUR IDIOCY TO ME AGAIN. IF I CAN FIND YOU JUST NOW I WILL BEAT YOU UP. I HAVE BEATED PEOPLE 20 TIMES YUOR SIZE YOU IDIOT YOU ARE NOTHING , I CAN BREAK ALL YOUR BONES IN MINUTES. IF YOU THOUGHT OF PERSON TO BRING YOUR IDIOCY TO AND THINK OF ME , I WILL DESTROY YOUR IDIOCY AND SEND YOU TO YOUR GRAVE

f) *On or September 25, 2016 you sent an email message to Dr. Swica which stated the following, or used similar words:* IDIOT I DID YOUR SLATE WHEN YOU HAD YOU FLU. EVERYBODY IN ICU TOLD YOU TO PUT MASK BUT YOU VREFUSED BECAUSE YOU ARE AN IDIOT. NOW YOU MAKE DO YOUR SLATE BECAUSE YOU ARE IDIOT , CANT HANDLE CASES JIM DID OTHER SLETES FOR YUO MY SLATE COUT IS 109, JIM 93 AND IDIOT 82,UP TO AUGUST. CALL ME GHOST AGAIN, I WILL BEAT YOU UP PHYSICALLY AND BREAK ALL YOUR BONES. DONT FUCK WITH ME . I CAN BEAT YOU TO DEATH IF YOU DONT KNOW ME.

MY LAST WARNING YOU IDIOT ,CALL ME ME GHOST. I WILL BEAT YOU UP. EVEN TOMOMMOR TRY ME AND SEE WHAT I DO TO YOU IF YOU ARE IDIOT GO TO CANIVALS. YOU LOOK LIKE MAN EATER. WHY DID YOU LEAVE PIZZA WHERE YOU WORKED AND BELONG

g) *On or September 25, 2016 you sent an email message to Dr. Swica which stated the following, or used similar words:* FUCKING IDIOT SWICA DONT CALL ME MUZIMU, EVEL SPIRIT. YOU IDIOT LEAVE ME ALONE. I DIDINT BRING YOU FROM NOVA SCOVIA. THEY CHASED YOU AWAY. GO AND LOOK FOR GHOSTS OF YOUR

GRAND MOTHER. YOU IDIOT STOP YOUR FULLISSHNESS. IAM DOING YOUR SLATE TOMOMORROW BECAUSE YOU IDIOT CANT DO KIDS. YOU ARE AN IDIOT GO BACH, YOU FOUND ME HERE, WHAT BROUGHT YOU HERE IDIOT WE ARE ALL TIED OF YOU IDIOT

h) On or September 25, 2016 you left a handwritten note for Dr. Swica which stated the following, or used similar words: IDIOT Dont call me “ghost” again. I will beat you up. “I will beat you up”

i) Some or all of the email messages which you sent to Dr. Swica were copied to other persons;

j) Some or all of these messages could reasonably have been interpreted by Dr. Swica as threatening.

The Position of the Registrar’s Office

[2] The Registrar’s Office’s perspective is that an appropriate penalty for Dr. Lubega, based on Dr. Lubega’s signed admission of the charge and the Agreed Statement of Facts, is a penalty of a reprimand, ethics course, and costs. The Registrar’s Office are not opposed to a suspension.

[3] There are several mitigating factors that Council was asked to consider. The behavior at issue took place in the context of an ongoing dispute within the anesthesia department. Dr. Lubega was immediately remorseful and contacted the Physician Health Program shortly after the conduct. Dr. Lubega admitted the conduct and has been cooperative. The word “muzima” is deeply offensive to Dr. Lubega as it would be to anyone from the region of Uganda where he is from.

[4] An aggravating factor for Council to consider is the serious nature of the comments made in the emails. These were so concerning to the receiving physician that the police were involved. No charges were laid.

[5] The Registrar’s Office cited fifteen cases from Saskatchewan and Ontario and these can be viewed in full in **Information Document 225_17**. The Council reviewed these.

The Position of Dr. Boniface Lubega

[6] Counsel for Dr. Lubega, and Dr. Lubega submit that a reprimand and costs are sufficient penalty.

[7] Counsel for Dr. Lubega bases this on several factors. No patients were involved in the conduct. This was an isolated incident not in keeping with his nature. Dr. Lubega sought help from the Physician Health Program (PHP) shortly after the conduct. The Counselor for the PHP felt there was no need

to continue seeing Dr. Lubega and that he was remorseful for his conduct. The Counselor's opinion was that there was little chance of this occurring again. There has been a significant history of a combative relationship between Dr. Lubega and Dr. Swica. The term "muzima" is very offensive to Dr. Lubega.

[8] Dr. Lubega's conduct has been dealt with locally. Dr. Lubega acknowledged his behavior and wrote a letter of apology to Dr. Swica.

[9] Dr. Lubega's counsel cited similar cases.

Principles in Establishing the Penalty

[10] Specific deterrence. It appears that this conduct was isolated and not in keeping with Dr. Lubega's normal behavior. The remorse he feels appears genuine. Council does feel confident that this conduct will not be repeated.

[11] General deterrence. Unfortunately conduct like this is easily found in historical cases in Saskatchewan and Ontario. It is important that the reputation of the profession be maintained and that the profession knows there are consequences to this conduct.

[12] Does the conduct impact patients? We were not given any information to believe that patient care was affected due to this conduct.

[13] Mitigating and aggravating factors. This is summarized earlier.

Penalty

[14] There must be general deterrence to the profession with regard to this behavior. Even though the conduct was serious, Council has determined that due to many mitigating factors a reprimand is appropriate. The profession should not shoulder the burden of costs associated with this type of behavior. Council therefore requires that Dr. Lubega pay costs. Dr. Lubega is remorseful and unlikely to reoffend. However, this conduct is serious and Council wants to be sure that he develops insight to this behavior. Therefore Council requires Dr. Lubega to attend an ethics course.

[15] The Council imposed the following penalty on Dr. Lubega,

- 1) Pursuant to Section 54(1)(e) of *The Medical Professional Act, 1981*, the Council hereby reprimands Dr. Lubega. The format of that reprimand to be determined by the Council;
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Accepted by the Council of the College of Physicians and Surgeons of Saskatchewan: 25 November, 2017



*College of
Physicians and Surgeons
of Saskatchewan*

101 – 2174 Airport Drive
SASKATOON SK S7L 6M6

Business: (306) 244-7355
Fax: General (306) 244-0090
Fax: Dr. K. Shaw (306) 244-2600
Email: cpssinfo@cpss.sk.ca
www.cps.sk.ca

REGISTRAR
KAREN SHAW, M.D.

27 November, 2017

[REDACTED]

Dear Dr. Lubega,

On September 29, 2017 the Council of the College of Physicians and Surgeons of Saskatchewan accepted your admission of guilt to charges of misconduct. Following deliberation, penalty was determined. One component of that penalty was an official reprimand by the Council. It was the will of Council that I compose the reprimand.

You, Dr. Boniface Lubega, having been found guilty of professional misconduct while practising medicine in the province of Saskatchewan are hereby reprimanded by the Council of the College of Physicians and Surgeons of Saskatchewan.

The Council has spent a great deal of time in the consideration of this matter. It was recognized by the Council that you were subject to severe personal stressors both prior to and at the time of your offences. It was understood that the complexity of your work relationships impacted the nature of the offences to which you have admitted guilt. Unfortunately, the complexity of the interactions with your colleagues can not be accepted as justification for your actions, although they can be, and have been, considered as mitigating factors in the determination of your penalty.

Continued.....

***To serve the public by regulating the practice of medicine
and guiding the profession to achieve the highest standards of care***

It was clearly established that your interactions with your anesthesia colleagues have been troubled for some time. It was also quite clear to the Council, that there was fault on all sides in this progressively unprofessional series of interactions. Unfortunately, it remains with each of us to realise when work interactions are becoming irrational or overly charged. In this circumstance, you have a responsibility to enlist the assistance of your medical leadership to de-escalate conflict. In circumstances where one finds oneself unable to extricate oneself from a clearly unhealthy and unproductive interaction, each individual must be held responsible for the decisions they subsequently make. Unfortunately your decision making was not prudent.

The Council made significant effort to ensure that we had context with respect to the racially offensive term that was applied to you. While we respect your right to be offended by the use of racially inflammatory or derogative language, this still cannot justify you highly offensive and potentially criminal response. It was observed by the Council, that your email threats and insults seemed to be driven by anger that had outstretched your ability to rationally control. It remains evident that even in such extreme emotional duress, any individual remains responsible for his or her actions, as you have been held to account in this matter.

It is the hope of the Council, that you will engage all of the resources at your disposal, including regional administration, medical leadership and resources available through the SMA to help resolve outstanding conflicts and establish a more collegial relationship with the other anesthetists with whom you work. Failing this, please reflect on the fact that regardless of how situations may escalate, there is no justification for any repeat episode of unprofessional, threatening or abusive communications on your part.

The Council expects you to uphold your stated affirmation that no repetition of this situation will occur.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]