

## **SUMMARY OF DECISION OF INVESTIGATION COMMITTEE “B” DR. BRADLEY ATKINSON**

Investigation Committee “B” of the College of Physicians and Surgeons of Nova Scotia (the College) concluded its investigation into a complaint against Dr. Bradley Atkinson by Decision dated September 28, 2015. The Investigation Committee reached agreement with Dr. Atkinson with respect to the disposition of the complaint, and a Summary of the complaint and its disposition appears below.

### **SUMMARY OF BACKGROUND, COMPLAINT AND RESPONSE**

Dr. Bradley Atkinson is a physician licensed to practice medicine in Nova Scotia, working in Sheet Harbour. He has been in practice for approximately 25 years. He currently practices with two other physicians within an outpatient clinic in the Eastern Shore Hospital. He and his colleagues cover inpatients and the ER at that facility.

The complaint which is the subject of this decision was brought to the attention of the College when a pharmacist received a duplicate prescription for Tylenol # 3 written by Dr. Atkinson on September 5, 2014. Through information obtained by the pharmacist from the province’s new Drug Information System, she realized that Dr. Atkinson had a prior restriction on his licence, restricting him from prescribing narcotics and controlled substances.

The restriction on Dr. Atkinson’s licence arose out of a prior complaint in 2008 from the PMP. In the course of investigating that complaint the Investigation Committee had a number of concerns about Dr. Atkinson’s knowledge and skills in relation to the treatment of patients with narcotics, along with concerns about whether he acknowledged or understood the risks associated with these prescriptions. As part of the resolution of that complaint Dr. Atkinson agreed to relinquish his prescribing privileges for narcotics and controlled substances with Health Canada for a period of one year. The decision of the Investigation Committee noted that in order to have these prescribing privileges reinstated, he would have to obtain a letter of support from the College and it would be necessary to demonstrate to the College’s satisfaction that he had improved his knowledge and skills in the use of controlled substances.

The Registrar, Dr. D.A. (Gus) Grant, reviewed the current and previous complaints, and spoke with Dr. Atkinson on September 23, 2014. He learned that Dr. Atkinson had taken no steps with the College to apply for a reinstatement of his prescribing privileges following the 2008 complaint.

The Prescription Monitoring Program Prescriber Profile for Dr. Atkinson for the period from June 1, 2008 to September 19, 2014 showed that he had prescribed opioids and other controlled substances in violation of the restrictions on his license.

In Dr. Atkinson’s written response to the complaint, he explained that he attempted to renew his prescribing privileges in response to a request by the Site Chief at the Eastern Shore Memorial Hospital. The site chief indicated that he had previously requested Dr. Atkinson obtain a reinstatement of his prescribing privileges. He also offered the opinion to Dr. Atkinson that there was “no specific impediment” to Dr. Atkinson obtaining the privileges from Health Canada. The site chief was treating the issue as “urgent” and requested that Dr. Atkinson provide him with proof of reinstatement.

According to Dr. Atkinson, the step he took towards this was to contact the Prescription Monitoring Board to request privileges and, he was told that “they saw no reason for me not to do so”.

As to the specific prescription giving rise to this Complaint, Dr. Atkinson noted that it was written for a 60-year-old male patient who was well known to him and who suffered from work-related knee-pain. Previous efforts at pain reduction (non-steroidal and intra-articular injections) had not been successful and the patient had reported having experienced some relief when he “borrowed” two Tylenol # 3’s from a friend. While Dr. Atkinson said that he would normally have consulted with another physician in relation to the prescription, no other doctors were available due to the lateness of the hour.

As to the allegation that he had written other prohibited prescriptions, Dr. Atkinson said that this impression was created due to the fact that the Harbour View Nursing Home records would have ascribed prescriptions written by other doctors for his patients to him.

Finally, he explained that he had not understood that the scope of the restriction would extend to Ritalin and hormone type medications for his hypogonadism patients. He further requested that he be permitted to write such prescriptions in the interests of his patients.

Dr. Grant met with the Investigation Committee on October 7, 2014 and explained that, in 2010, through an apparent oversight at the College, information had been provided to the PMP to request removal of some of Dr. Atkinson’s restrictions. The PMP system then incorrectly removed all references to restrictions. This had been done without Dr. Atkinson following the direction of the 2008 Committee that required him to apply to the College for a lifting of the restrictions, and to demonstrate to the College’s satisfaction that he had improved his knowledge and skills in the use of controlled substances.

Dr. Atkinson appeared before the Committee on November 18, 2014 and described his practice in a community of approximately 6000, where he does ER work, nursing home work and participates (with two other physicians) in a private practice operating out of the Eastern Shore Memorial Hospital. He stated that his practice, like the local population, is largely geriatric.

He explained that he preferred not to prescribe opiates but had been asked by his Chief of Staff to reinstate his prescribing privileges, so he would “have to go through the motions”. He indicated that he understood the restriction only applied to narcotics and argued he was compliant because he had not prescribed narcotics until September. He justified his prescription thereafter on the basis that his site chief had contacted Health Canada, and he himself had contacted PMP and been told there was no problem. However, he did acknowledge having failed in his responsibility to contact the College.

As to the specific incident giving rise to the current complaint, he stated he felt no guilt, it was not comparable to giving “300 Tylenol # 3 to a 19 year old”, and the pharmacist was pursuing the matter in order to be paid.

At the request of the College, an auditor reviewed Dr. Atkinson’s practice on December 3, 2014. The audit looked at both record-keeping and prescribing. As to the former, it noted that most charts were illegible, documentation was brief, histories, if taken, were not noted and diagnoses were usually absent or illegible. Charts were not easy to read, did not contain an introduction showing the patient’s demographics, family, past medical or social histories. They did not contain up-to-date comprehensive and legible medication records. They did not follow a SOAP or similar format.

Based on the encounters of the auditor with Dr. Atkinson, the auditor found a failure to follow up on significant issues, failure to refer when appropriate, an inability on his part to recall anything about many patient encounters and a lack of support in the records. The auditor found his responses to be flippant and noted that he blamed all shortcomings on the volume of his patient load. The audit describes quality of care as “deficient” in 6 out of the 7 areas.

Dr. Atkinson appears to justify the poor documentation by reference to the fact that he sees between 50 and 60 patients per day. The auditor noted that Dr. Atkinson’s stated belief that the situation will improve with Electronic Medical Records is not justified. It was noted that the volume of patients likely meant that they were receiving superficial care.

In addition to the audit, the College requested that Dr. Atkinson engage in a practice assessment. The assessor confirmed the charting issues but did not find that there were concerns with the clinical care being provided. He stated that Dr. Atkinson was amicable and attentive in clinic and usually addressed patient concerns appropriately. His competence and knowledge were appropriate but he needed to properly document his care.

A second letter of complaint was received by the College from a representative of the Nova Scotia Health Authority, who noted that on April 21, 2015 for a patient at Harbourview Lodge in violation of his prescribing restrictions Dr. Atkinson wrote an order for morphine. The complainant alleged this was not the first time Dr. Atkinson had attempted to do so.

In his response, Dr. Atkinson wrote that he was on call and had been called to assist with another physician’s patient who was “actively dying”. He admitted to signing the “standard” order for the patient which included an order for morphine and advised that staff assured him that they would have the form initialled by another doctor in due course. He said he “failed to understand the thought process when it turns this compassionate act into a complaint”.

## **DECISION**

Dr. Atkinson signed a letter relinquishing his prescribing privileges and stating his understanding that he would have to apply for reinstatement with written support from the College. However, he never contacted Health Canada to have his prescribing privileges reinstated. Nor did he obtain the letter of support required from the College or attempt to satisfy the College that his knowledge of narcotics and controlled substances had improved to such a degree as to safeguard patients in his care.

The evidence before the Committee clearly demonstrated that Dr. Atkinson has repeatedly acted in violation of the restrictions in place. Dr. Atkinson has admitted to many of these incidents. Although he offers explanation, these explanations do not excuse his conduct. At a minimum, it is clear that he prescribed the Tylenol 3 that is the subject of this complaint and the morphine that is the subject of the second complaint. In addition, he was likely also signing renewal orders of restricted medications for quarterly prescription reviews. The Committee is concerned that there are other instances which have not come to light.

As to the events of 2010, and the PMP’s lifting of the restriction in its files, while this may have caused some confusion in Dr. Atkinson’s mind as to his ability to prescribe, it is a confusion that arises due to his own failure to attend closely to the regulatory requirements and take seriously the scope of the restrictions against him.

This casual attitude on Dr. Atkinson's part is underlined by the fact that he acted contrary to the restriction even during the course of this investigation in the incident that gave rise to the second complaint.

Throughout the course of the investigation, Dr. Atkinson's responses have underlined his tendency to minimize the importance of the restrictions. He appeared flippant and not to appreciate the importance of the regulatory regime and the discipline process within it.

Indeed, his comment in relation to the second complaint that the nursing staff would have the order initialled by another physician suggests a complete failure to appreciate the nature of the privilege to prescribe. Ordering a medication requires that a physician (with the necessary prescribing privilege) deem it to be the appropriate therapy. While a physician may prescribe a medication based on information received from another physician, this is not an activity that can be carried out through administrative means, by way of an unqualified intermediary. To have another physician initial such orders, purporting to indicate that they prescribed the medication effectively amounts to deceit, which would clearly undermine the safeguards inherent in the prescribing process.

There is no evidence that Dr. Atkinson has made any effort to improve his knowledge and skills around the prescribing of narcotics and controlled substances, as contemplated by the 2008 decision as a precondition of regaining his prescribing privileges. He stated on more than one occasion that he has no real "interest" in prescribing narcotics and is only "going through the motions" at the behest of the site chief. As such, currently, there does not appear to be a basis to support an application to have his restrictions removed.

The Committee is also concerned by evidence of Dr. Atkinson's prescribing practices which came to light during the course of this investigation. In particular, his practice of treating patients with male hormones is unusually wide-spread, which is unreasonable and out of keeping with what is usually seen in a general practice. The use of hormone therapy in the manner described by Dr. Atkinson is not supported by medical research.

The audit also raised serious concerns for the Committee. Seeing a large number of patient's does not justify poor record-keeping and the fact that Dr. Atkinson seems to think it does, is disturbing. The practice assessment report discloses many of the same issues as the auditor's report regarding record-keeping. The assessor notes issues such as the absence of flow sheets, Rourke's records and the low number of Paps. While Dr. Atkinson has indicated a willingness to improve his record-keeping, the Committee believes that further training will be an important component to translating that stated willingness into action.

It is noted that the assessor found Dr. Atkinson to be competent and had no significant concerns regarding patient care or safety.

The Committee concluded:

1. Dr. Atkinson has been prescribing narcotics despite the restriction on his licence as of April 9, 2008.
2. Dr. Atkinson demonstrated a lack of insight into this breach in his written submissions and his interview with the Committee.
3. This lack of insight was underlined by his prescribing of morphine during the course of the investigation.

4. Dr. Atkinson's medical record keeping is woefully inadequate.
5. Dr. Atkinson has displayed a lack of professionalism in his communications with the College.
6. Dr. Atkinson has not demonstrated any effort to improve his knowledge and skills in the area of narcotics and controlled substances. Further concerns in this area arise due to his unconventional use of male hormone therapy. In light of this, Dr. Atkinson's situation remains very much as it was following the resolution of the 2008 Complaint.

## DISPOSITION

In accordance with clause 99(5)(f) of the regulations under the *Medical Act*, the Committee determined that there was sufficient evidence that, if proven, would constitute professional misconduct that warrants a licensing sanction. Rather than refer the matter to a hearing, the Committee determined that the matters can be resolved with the consent of Dr. Atkinson to the following:

1. Dr. Atkinson is *reprimanded* for breaching the conditions of his licence restrictions in relation to the prescription of narcotics and other controlled substances.
2. Dr. Atkinson is further *reprimanded* for committing a further breach of these restrictions during the course of this investigation.
3. The restrictions on Dr. Atkinson's prescribing privileges, first put in place in 2008, are continued until such time as the College is satisfied that Dr. Atkinson has improved his knowledge and skills in the use of controlled substances, thus reducing the risk of harm to the public, following which Dr. Atkinson must then take the necessary steps with Health Canada to have his privileges reinstated.
4. A "Notice of Restrictions" on legal size paper shall be posted in the waiting area of Dr. Atkinson's clinical practice, in a place visible to all patients, at all times while he holds a licence to practice medicine. Such "Notice of Restrictions" shall also be posted in a suitably visible location, as determined by the management of Harbourview Lodge and the Eastern Shore Memorial Hospital or any other facility at which Dr. Atkinson provides medical care, at all times that he is acting in a staff or on-call capacity.
5. Dr. Atkinson shall complete the record-keeping course offered at Western University, or a similar course approved by the College, within 3 months of this Decision.
6. A follow up audit arranged through the College's Physician Performance Department shall be conducted within 3 months of the date of this decision to assess whether appropriate improvement has taken place. This audit shall be at the cost of Dr. Atkinson.
7. Dr. Atkinson shall complete professionalism training as determined by the College's Physician Performance Department within 3 months of the date of this decision to provide Dr. Atkinson with a better understanding of the need for professionalism in his communication with regulatory authorities. This training shall be at the cost of Dr. Atkinson.
8. Dr. Atkinson shall contribute an amount toward the College's costs in this matter, which shall include payment for the audit and practice assessment.

Dr. Atkinson has agreed to accept this disposition.

The Committee believes that this disposition reflects its serious concerns with respect to Dr. Atkinson's lack of compliance with regulatory requirements around prescribing, his failure to follow the requirements of the College and the importance of proper record keeping for patient care and safety. The concerns of the Committee are magnified by Dr. Atkinson's continuing disregard for the regulatory restrictions and his failure, in the past, to take the steps necessary to ensure that he remained compliant of the practice restrictions. Such wilful conduct calls out for the various restrictions and requirements set out above.

The continuing restriction on his prescribing privileges prohibits him from prescribing narcotics and controlled substances. Any further failure to abide by these restrictions and fulfil these requirements will be regarded as extremely serious, given that Dr. Atkinson's behaviour may already be said to border on "ungovernability". Further violations of the prescribing restrictions may result in more serious measures up to and including revocation of his licence to practice medicine.

At the same time, the decision recognizes that Dr. Atkinson has been shown to be competent to practice and provides appropriate care to his patients.