

## HEARING TRIBUNAL FINDINGS AND ORDERS

January 1, 2015 – December 31, 2015

### 1. Practitioner Name Not To Be Disclosed

#### Charges

1. **(WITHDRAWN)** On or about (Dates) and any dates relevant to the conduct and matters, contravention of *Section 1(1)(pp)(i) of the Health Professions Act*, “displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services”:

IN THAT the Member fabricated a maxillary partial denture for patient (patient name) omitting the “try-in” step contrary to the process the Member confirmed to the patient, and contrary to proper denturism practices and guidelines.

2. On or about (Dates) and any dates relevant to the conduct and matters, contravention of *Section 1(1)(pp)(ii) of the Health Professions Act*, and the College of Alberta Denturists Code of Ethics items #1, #2, #6, #7 and #25 and the College of Alberta Standards of Practice items of “Responsibilities” and “Ethics” by one or more of the following:

IN THAT the Member

- a. used the Member’s position with (Patient name) rather than attempt to resolve (Patient) complaint, against another dentist, including by proposing a solution of advantage to the Member professionally, and enticing (Patient) thereby to become the Member’s patient as a solution to patient complaint, this contrary to Sections 1, 2, 6, 7 and 25 of the College of Alberta Denturists Code of Ethics; and
  - b. failed to provide formal notification to the Complaints Director of the College of Alberta Denturists of possible unprofessional conduct by regulated members of the College, contrary to Section 24 of the College of Alberta Denturists Code of Ethics.
3. On or about (Dates) and any dates relevant to the conduct and matters, contravention of *Section 1(1)(pp)(vii)(B) of the Health Professions Act*, “failure or refusal to comply with a request of or co-operate with an investigator”:

IN THAT the Member throughout the course of the investigation duly convened and ordered into this complaints matter, repeatedly delayed, misrepresented, obstructed and/or otherwise failed to respond to requests of the investigator.

4. On or about (Dates) and any dates relevant to the conduct and matters, contravention of *Section 1(1)(pp)(iii) of the Health Professions Act*, “contravention of another enactment that applies to the profession”, namely the *College of Alberta Denturists Patient Recordkeeping Manual* – 2008:

IN THAT the Member failed to maintain patient records at an acceptable minimum standard as evidenced by a chart review of 51 patient files, including errors or omissions related to any one or more of the following:

- a. Personal Information and Privacy Act (PIPA) - forms missing;
- b. Entries on patient chart - not initialed;
- c. Procedures - claimed but not documented;
- d. Relines and tissue conditioning - insufficient documentation to support;
- e. Complete denture claims - Insufficient documentation to support;
- f. Miscellaneous forms and charts - dates and signatures missing or incomplete;
- g. Commercial laboratory invoices on patient files - missing; and
- h. Medical and dental history, consent forms, extraoral/intraoral assessments - missing or incomplete.

### **Findings**

Following a short period of deliberation, the Hearing Tribunal informed the Parties that it was prepared to accept the admission as to unprofessional conduct.

### **Orders**

After hearing the Parties' submissions and concluding a further period of deliberation, the Hearing Tribunal informed the Parties that it was prepared to accept the Joint Submission on sanction with written reasons to follow.

The Parties outlined a joint submission as to the sanctions that should be imposed on the Member given the Member's admission of unprofessional conduct. This joint submission provided, in part, for the following sanctions:

1. The Member shall pay a fine in the amount of \$2,500.00 concerning charge #4.
2. Having regard to the findings of unprofessional conduct concerning charges #2, #3 and #4, the Member will pay the costs incurred on this matter in the amount of \$12,500.00.
3. The Complaints Director of the College may agree to accept time payment of the fine described in order 1 and the costs described in order 2 in equal monthly payments over a time period determined by the Complaints Director provided however that if the Member defaults with respect to any time payment the College may immediately and without the necessity of a further hearing cancel the Member's practice permit with the College until such time as the Member has paid the remaining balance of the said fines and costs.

The joint submission also stipulated that there should be no publication of the Member's name and no publication of the Hearing Tribunal's Findings and orders other than a generic and anonymous publication of those matters as follows:

- (i) In the College newsletter;
- (ii) In a report at the College's annual general meeting;
- (iii) On the College's website; and/or
- (iv) In the College's annual report to government.

The Member also acknowledged that the Findings and Orders of the Hearing Tribunal would only be disclosed pursuant to the Act or as may otherwise be required by law.

## **2. Practitioner Name Not To Be Disclosed**

### **Charges**

1. On or about (Dates) and any dates relevant to the conduct and matters, contravention of Section 1(1)(pp(ii) of the Health Professions Act, "contravention of this Act, a code of ethics or standards of practice" by one or more of the following:

IN THAT the Member:

- a. inappropriately billed the insurer for services not performed in relation to patients (Patient Names); and/or
- b. failed to refund deposits paid by patients, having received reimbursement in full from the insurer for certain services billed for those patients in relation to patients (Patient Names); and/or
- c. falsified patients' signatures on claim forms submitted to the insurer for payment of services not performed in relation to patients (Patient Names); and/or
- d. had patients sign blank insurer claim forms in relation to patients (Patient Names), and retained a supply of said signed forms for unspecified future purposes, all of which contravene the College's Code of Ethics, specifically:
  - a. Section 2, "Ensure that their conduct is professional and that they will not take physical, emotional or financial advantage of their Patients";
  - b. Section 6, "Understand and adhere to the requirements of the Health Professions Act, the Denturists Profession Regulation, the College of Alberta Denturists By-laws, Standards of Practice and these Codes of Ethics";
  - c. Section 7, "Uphold the honor and dignity of the profession by maintaining integrity and ethical behavior";
  - d. Section 23, "Where appropriate, inform the College when a physical or mental condition has affected, or may affect over time, their ability or another Member's ability to practice safely or competently, and further, where appropriate, inform the appropriate College when another health professional's ability to practice safely or competently is affected"; and
  - e. Section 27, "Faithfully adhere to the College of Alberta Denturists Code of Ethics Principles Document which forms part of this Code of Ethics".

2. On or about (Dates) and any dates relevant to the conduct and matters, contravention of Section 1(1)(pp(ii) of the Health Professions Act, “contravention of this Act, a code of ethics or standards of practice” by one or more of the following:

IN THAT the Member failed to create, maintain and store patient records at an acceptable minimum standard as evidenced by an inspection of the Member’s clinic premises and chart review of selected patient files, including errors or omissions related to any one or more of the following:

- a. Record storage  
Records not located or maintained in secured storage; not in an environment that maintains the integrity of the record; readily viewable by the public or other patients; and left unattended or in public areas of the clinic
- b. Personal Information and Privacy Act (PIPA) - forms missing;
- c. Entries on patient charts - not initialed;
- d. Procedures - claimed but not documented;
- e. Relines and tissue conditioning - insufficient documentation to support;
- f. Complete denture claims - Insufficient documentation to support;
- g. Miscellaneous forms and charts - dates and signatures missing or incomplete; and
- h. Medical and dental history, consent forms, extraoral/intraoral assessments missing or incomplete,

all of which contravene the College’s Patient Recordkeeping Standards (2012) and the College’s Code of Ethics, specifically:

- a. Section 22, “Keep accurate records of all clinical findings, diagnosis, treatments, prognosis and referrals”.

3. On or about (Dates) and any dates relevant to the conduct and matters, contravention of Section 1(1)(pp(ii) of the Health Professions Act, “contravention of this Act, a code of ethics or standards of practice” by one or more of the following:

IN THAT the Member failed to notify the Member’s patients of the Members extended absence and ultimately, the closure of the Member’s practice, and specifically of arrangements for their continuing care and access to their patient records, in contravention of the College’s Code of Ethics, specifically:

- a. Section 15, “Not abandon their Patients or refuse to render or provide for the emergency care of their Patients”.

4. On or about (Dates) and any dates relevant to the conduct and matters, contravention of Section 1(1)(pp(ii) of the Health Professions Act, “contravention of this Act, a code of ethics or standards of practice” by one or more of the following:

IN THAT the Member failed to notify the College of the Member's whereabouts, current contact information and the status of the Member's practice as required by the College, in contravention of the College's Code of Ethics, specifically:

a. Section 29, "Recognize and abide by the authority provided to the Regulatory Body, the College of Alberta Denturists".

5. On or about (Dates) and any dates relevant to the conduct and matters, contravention of Section 1(1)(pp(ii) of the Health Professions Act, "contravention of this Act, a code of ethics or standards of practice" by one or more of the following:

IN THAT the Member failed in the Member's personal responsibility for self-care in the interests of providing safe, competent clinical practice, in contravention of the College's Code of Ethics, specifically:

a. Section 31, "Obtain help from Colleagues and other health professionals, for personal issues and problems which may affect the ability to provide safe, efficient and competent Denturist services".

## **FINDING**

On careful consideration of the evidence, particularly the Investigation Report and Admission of Unprofessional Conduct, the Hearing Tribunal is satisfied that the conduct of the Member between and including (dates) regarding all the allegations included in the Notice of Hearing Tribunal Hearing, Notice to Attend and Notice to Produce adversely affects the integrity of the profession of Denturists in Alberta.

After consideration of all the evidence, including that mentioned in the judgement, the Hearing Tribunal determined that the Member is guilty of unprofessional conduct contrary to the *Health Professions Act* of Alberta and the College of Alberta Denturists Code of Ethics and the College of Alberta Denturists Standards of Practice as articulated in Paragraphs 1,2,3,4 and 5 of the Notice of Hearing for these proceedings.

## **ORDERS**

1. The Member is formally reprimanded for the Member's unprofessional conduct. The Hearing Tribunal's written decision will constitute the reprimand.
2. The Member will pay all the costs incurred by the College concerning the investigation and this hearing in the amount of \$33,086.40.  
Subject only to the second sentence in this paragraph, both parties also submit that there should be no publication of the Member and no publication of the hearing tribunal's findings and orders other than a generic and anonymous publication of those matters in the College newsletter and report at the College's annual general meeting and on the College's website inasmuch as the disclosure appears in publications posted to the website, and in the College's annual report to the government. The Member acknowledges and understands

that the findings and orders of the hearing tribunal will only be disclosed pursuant to the Health Professions Act or as may otherwise be required by law.

3. Pursuant to section 80 of the Health Professions Act:

*“80 (2) If the hearing tribunal is of the opinion that there are reasonable and probable grounds to believe that the investigated person has committed a criminal offence, the hearing tribunal must direct the hearings director to send a copy of the written decision under section 83 to the Minister of Justice and Solicitor General and on the request of the Minister of Justice and Solicitor General also send a copy of the record of the hearing. RSA 2000 cH-7 s80; 2013 c10 s17”*

The Hearing Tribunal direct the Hearings Director to send a copy of the written decision to the Minister of Justice and Solicitor General.