

COLLEGE OF PHYSICIANS & SURGEONS OF ALBERTA

IN THE MATTER OF
A HEARING UNDER THE *HEALTH PROFESSIONS ACT*,
R.S.A. 2000, c. C-7

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF DR. NATASHA IYER

**DECISION OF THE HEARING TRIBUNAL OF
THE COLLEGE OF PHYSICIANS
& SURGEONS OF ALBERTA**

I. INTRODUCTION

The Hearing Tribunal held a hearing into the conduct of Dr. Natasha Iyer on June 22, 2021 pursuant to the *Health Professions Act* (“HPA”). The members of the Hearing Tribunal were:

Ms. Archana Chaudhary as Chair and public member, Dr. Eric Wasylenko, Dr. Goldees Liaghati-Nasserri and Mr. Douglas Dawson (public member). Mr. Matthew Woodley acted as independent legal counsel for the Hearing Tribunal.

In attendance at the hearing were Mr. Craig Boyer, legal counsel for the Complaints Director of the College of Physicians & Surgeons of Alberta, Dr. Natasha Iyer, Ms. Andrea Froese and Ms. Jaspreet Singh, legal counsel for Dr. Iyer. Further, the complainant, Ms. [REDACTED], was also in attendance.

II. PRELIMINARY MATTERS

Neither party objected to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing. There were no matters of a preliminary nature. The hearing was conducted in public pursuant to section 78 of the HPA, and no application to close the hearing was brought by the parties.

III. ALLEGATIONS

The Notice of Hearing listed the following allegations:

1. *On March 22, 2019, you demonstrated a lack of knowledge or a lack of skill or judgment in failing to adequately recognize and treat a vascular event in your patient, [REDACTED], after injecting Teosyal into the patient’s nose;*
2. *You demonstrated a lack of knowledge or a lack of skill or judgment in failing to adequately inform your patient, [REDACTED], of the need for urgent treatment of the vascular event on March 22, 2019;*
3. *The form of consent used in your office for procedures using Teosyal or Restylane, as was performed on your patient, [REDACTED], is inadequate; particulars of which include one or more of the following;*
 - a. *indicating that a vascular event most often resolves spontaneously within 2 days; and*
 - b. *failing to discuss the risk of blindness when injecting high risk areas*
4. *You demonstrated a lack of skill or judgment in failing to create an adequate record of any informed consent discussion with your patient, [REDACTED].*

IV. EVIDENCE

The following Exhibits were entered into evidence during the hearing:

Exhibit 1: Agreed Exhibit Book, containing

- Tab 1: Notice of Hearing, dated March 25, 2021
- Tab 2: Letter of Complaint from [REDACTED], dated August 19, 2019 with enclosures
- Tab 3: Letter of Response from Dr. Iyer, dated September 24, 2019
- Tab 4: [REDACTED]'s patient chart
- Tab 5: Email exchanges between [REDACTED] and Dr. Iyer from March 26 to April 10, 2019, with photos
- Tab 6: Blank consent form used by Dr. Iyer
- Tab 7: Expert Opinion from Dr. McFadden, dated May 5, 2020
- Tab 8: Memorandum by Dr. Howard-Tripp dated May 26, 2020 regarding interview of [REDACTED]
- Tab 9: Memorandum by Dr. Howard-Tripp dated October 1, 2020 regarding interview of H. Dutkowsa
- Tab 10: Expert opinion from Dr. Arlette, dated November 27, 2020
- Tab 11: Undertaking of Dr. Iyer to CPSA, dated January 20, 2021
- Tab 12: Letter from Dr. Arlette re successful completion of Filler Induced Vascular training
- Tab 13: CPSA Standard of Practice - Patient Record Content
- Tab 14: CPSA Standard of Practice - Informed Consent
- Tab 15: CPSA Standard of Practice - Disclosure of Harm

Exhibit 2: Admission and Joint Submission Agreement

The parties submitted to the Hearing Tribunal an Admission and Joint Submission Agreement (“Agreement”). Amongst other things, that Agreement confirmed that Dr. Iyer admitted that the allegations in the Notice of Hearing were true, and that the proven conduct amounted to “unprofessional conduct” pursuant to the HPA. The Agreement attached as Schedule “A” the agreed exhibit book. Further, the Agreement set out proposed sanctions if the Hearing Tribunal were to accept the admission of unprofessional conduct.

V. SUBMISSIONS ON THE ALLEGATIONS

a) Complaints Director

Mr. Boyer, on behalf of the Complaints Director, thanked counsel for Dr. Iyer for their cooperation for reaching an agreement on the contents of the Agreement.

Mr. Boyer briefly outlined the charges against Dr. Iyer in the Notice of Hearing. Mr. Boyer mentioned that there are basically three allegations, even though the notice of hearing has four allegations. Two are essentially dealing with the vascular event. There was the

identification of it and also the advising of the patient of the importance of seeking urgent care if such an event occurred, and then there was an allegation regarding the form of consents, and a lack of documentation in the patient chart about the informed consent discussion.

Mr. Boyer submitted that the patient attended Dr. Iyer's office on March 22, 2019 for some cosmetic work, in particular the injection of the drug Teosyal into the nose area that led to a vascular event with some bleeding and infection. The infection required treatment with IV antibiotics. The event was significant for the patient as there was considerable trauma and pain experienced by the patient, and ultimately the patient's healing from the vascular complication took four months. An expert opinion had been sought from Dr. McFadden, who is an Assistant Professor in the College of Medicine, University of Saskatchewan and a clinical instructor for Allergan who also trains injectors in advanced dermal filler techniques. The opinion regarding the care provided the quality of informed consent documentation and the charting of that discussion was critical of Dr. Iyer. Mr. Boyer relayed that Dr. Iyer subsequently agreed to restrict her cosmetic practice by not performing filler injections on the nose of any patient until such time as she has been given permission by the CPSA to do so. The conditions have remained on her practice since that time. Mr. Boyer advised the Hearing Tribunal that Dr. Iyer had taken some additional training through Dr. Arlette about recognizing and treating the type of vascular event that occurred with this patient.

Mr. Boyer submitted that Exhibits #1 and #2 provide ample evidence to support Dr. Iyer's admissions of unprofessional conduct, and that the admissions should therefore be accepted in accordance with section 70 of the HPA.

b) Dr. Iyer

Ms. Froese, legal counsel for Dr. Iyer, stated that the charges as set out in the Notice of Hearing have been admitted and that she was generally in agreement with the submissions made by Mr. Boyer on behalf of the Complaints Director.

c) Analysis and Decision on the Allegations Submissions

After a brief adjournment and deliberations by the Hearing Tribunal, the Chair confirmed that the Hearing Tribunal agreed that the evidence contained in the Agreement supported the four allegations in the Notice of Hearing, that the allegations had been factually proven, and that the proven allegations amounted to unprofessional conduct as defined in the HPA. The Hearing Tribunal was satisfied that Dr. Iyer's conduct fell below the standards required of a physician in the circumstances as reflected in the Standards of Practice, and that the failures were sufficiently serious to constitute unprofessional conduct. The Chair then invited submissions from the parties on the joint sanctions proposed by them.

VI. SUBMISSIONS ON THE SANCTION

a) Complaints Director

Mr. Boyer reviewed the proposed sanctions in the Agreement, and reiterated the importance of and law relating to joint submissions to the Hearing Tribunal. He highlighted two general principles which the Hearing Tribunal must be mindful of in determining an appropriate sanction: one is deterrence, both specific to the member and general to the profession at large; and the second one is rehabilitation of the member. Mr. Boyer indicated that the sanctions related to the reprimand and costs satisfy the requirement of specific deterrence to discourage the member from undertaking similar conduct in the future, and of general deterrence by ensuring that members are aware that unprofessional conduct attracts real and onerous sanctions. The proposed sanctions in relation to additional training requirements and revisions to the consent process and documentation used by Dr. Iyer will promote rehabilitation of the member, while at the same time recognizing the public interest in protecting patients in the future.

b) Dr. Iyer

Ms. Froese indicated that Dr. Iyer agreed with the submissions made by the Complaints Director in relation to sanction.

In response to questions posed by the Hearing Tribunal, Ms. Froese provided additional submissions with respect to how the allegations in this matter have impacted Dr. Iyer's judgment in relation to the selection of procedures that are within her capabilities, her preparation for the management of emergencies and her willingness to direct her patients' treatments in the interests of safety where a patient requests services that may not be consistent with the applicable standard of care.

Ms. Froese provided the Hearing Tribunal with submissions on the scope of experience and training that Dr. Iyer has, including 25 years of experience and 16 years of medical aesthetics. Her ability to judge what is a significant procedure is assisted by her experience in the emergency department, as well as within her medical aesthetics training. Further, Ms. Froese indicated that Dr. Iyer's clinic has medication available to address emergencies and that she consults with other professionals as required. Dr. Iyer's protocol is that every patient gets a call 24 hours after a procedure, 48 hours after a procedure and is booked to be seen within 14 days. In addition, there is an email contact as well as phone if there is an issue. Finally, Ms. Froese indicated that Dr. Iyer understands the importance of not letting a patient's emotional response and immediate satisfaction override her clinical and medical judgement and training.

Mr. Boyer also submitted that there have been no previous disciplinary issues involving Dr. Iyer, and that the complication at issue here was a known complication of the procedure that had been undertaken.

According to the Complaints Director, the material issue was the failure to identify the complication as it arose and to appropriately react to it in a timely manner.

VII. FINDINGS

The Hearing Tribunal carefully considered the submissions of the parties in relation to sanction, and considered the factors that are typically considered when determining sanction in the professional regulatory area. Sanctions must be in the public interest and must ensure that the public is protected from unprofessional conduct by regulated members; both deterrence and rehabilitation are relevant factors to consider in determining whether a proposed sanction is appropriate and in the public interest.

Further, the Hearing Tribunal is mindful of the way in which it must consider a joint submission on sanction. The Hearing Tribunal will only interfere with a proposed joint submission where it determines that the imposition of it would bring the administration of justice in the professional regulatory context into disrepute. This is a high standard and the Hearing Tribunal believes that the proposed sanction falls within the range of acceptable sanctions having regard to the relevant Standards of Practice and the proven facts, including the role of the member in accepting responsibility for her conduct, the impact on the complainant, and the need to balance deterrence with rehabilitation in the public interest.

The reprimand and cost consequences set out in the proposed sanction will send an important message to the profession that similar conduct will have real professional consequences, and will discourage Dr. Iyer from repeating her unprofessional conduct. Given her acceptance of responsibility and the training that she has already undertaken, the Hearing Tribunal is confident that the proposed sanction will have the intended effect. The required training also rehabilitates the member in order to ensure that she is able to continue to serve her patients in an ethical manner, consistent with current best practices related to informed consent.

For all of those reasons, the Hearing Tribunal accepts the joint submission on sanction, and imposes the orders set out below.

The Hearing Tribunal also wishes to recognize, in the interests of public safety, the importance of having appropriate protocols, office staff training and materials in place should an uncommon but major complication occur including insuring that appropriate reversal treatments are available, and that a post-procedural monitoring system is in place. This is important as a general reminder, but the Hearing Tribunal encourages Dr. Iyer to consider these matters in the context of her training and reflection following the resolution of this matter.

VIII. ORDERS

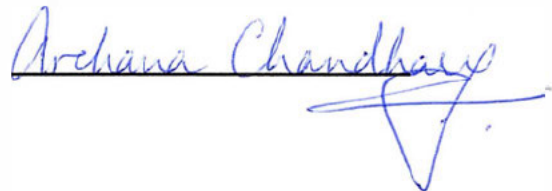
For the reasons set out above and pursuant to section 82 of the HPA, the Hearing Tribunal imposes the following orders on Dr. Iyer:

1. Dr. Iyer shall receive a reprimand;
2. Dr. Iyer shall, at her own expense, and to the satisfaction of the Complaints Director or delegate, undergo and complete Dr. Arlette's course on the recognition and treatment of vascular occlusion (the Complaints Director acknowledges that this has been fulfilled by Dr. Iyer);
3. Dr. Iyer shall provide the Complaints Director with evidence of successful completion of Dr. Arlette's course (the Complaints Director acknowledges that this has been fulfilled by Dr. Iyer);
4. Dr. Iyer's practice permit shall be subject to the condition that Dr. Iyer shall be prohibited from performing filler injections in the nose unless and until she has demonstrated to the satisfaction of the Complaints Director, or delegate, that Dr. Iyer has completed sufficient additional training for nasal injections and can identify and treat vascular occlusions arising from filler injections in the nose. This condition does not prohibit Dr. Iyer from providing neuromodular injections to a patient's face or performing filler injections in other areas of the face;
5. Dr. Iyer shall, at her own expense, and to the satisfaction of the Complaints Director, develop improved informed consent documentation and an office policy for providing cosmetic procedures in the office setting; and
6. Dr. Iyer shall be responsible for 2/3 of the costs of the investigation and the hearing before the Hearing Tribunal.

The Hearing Tribunal remains seized to deal with any issues arising from these orders.

**Signed on behalf of the Hearing Tribunal
by the Chair**

Dated this 20th day of Aug. 2021


Archana Chandhary