

COLLEGE OF PHYSICIANS & SURGEONS OF ALBERTA

IN THE MATTER OF
A HEARING UNDER THE *HEALTH PROFESSIONS ACT*,
RSA 2000, c H-7

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF DR. JEREMY REED

**DECISION OF THE HEARING TRIBUNAL OF
THE COLLEGE OF PHYSICIANS
& SURGEONS OF ALBERTA
August 15, 2024**

I. INTRODUCTION

1. The Hearing Tribunal held a hearing into the conduct of Dr. Jeremy Reed on April 4, 2024. The members of the Hearing Tribunal were:

Mr. Terry Engen as Chair (and public member);
Dr. Anca Tapardel;
Dr. William Craig; and
Ms. Dianna Jossa (public member).

2. Appearances:

Ms. T. Zimmer, legal counsel for the Complaints Director;
Dr. Gordon Giddings, Complaints Director.

Mr. Gregory Sim acted as independent legal counsel for the Hearing Tribunal.

II. PRELIMINARY MATTERS

3. Dr. Reed did not appear at the appointed time for the hearing. No representative attended on his behalf.
4. There were no objections to the composition of the Hearing Tribunal raised by the Complaints Director. The Complaints Director did not apply to close the hearing and the hearing remained open to the public. Because Dr. Reed did not attend the hearing the Complaints Director applied to the Hearing Tribunal to proceed with the hearing in Dr. Reed's absence.
5. With respect to that preliminary application, Ms. Zimmer directed the Hearing Tribunal to s. 72(1) of the *Health Professions Act* ("HPA") which requires an investigated person to appear before the hearing tribunal. She then referred the Hearing Tribunal to sections 79(6)(a) and (b) of the *HPA* which give a hearing tribunal the discretion to proceed with a hearing in the absence of the investigated person and to decide on the matter being heard, if there is proof that the investigated person has been given a notice to attend.
6. Ms. Zimmer entered into evidence as Exhibit 1 a Notice of Hearing dated November 8, 2023 setting out the date and time of the hearing and containing notice that the recipient of the Notice of Hearing is entitled to attend at that time and with legal counsel, but that if the person does not attend, the Hearing Tribunal may proceed in their absence.
7. Exhibit 2 entered at the hearing by Ms. Zimmer was an Affidavit of Attempted Service sworn by Ms. J. [REDACTED] W. [REDACTED]. That affidavit set out the attempts made by Ms. W. [REDACTED] to contact Dr. Reed and to serve him with the Notice of Hearing. Those attempts were as follows:
 - On September 23, 2023, Ms. W. [REDACTED] attempted to contact Dr. Reed to notify him that a hearing was being scheduled. She did so through the

CPSA physician portal and at the e-mail address that Dr. Reed had provided to the CPSA register in accordance with his obligation to maintain current contact information with the CPSA.

- On December 6, 2023, Exhibit 1 was posted through the physician portal and sent to Dr. Reed's email address. It was also sent by registered mail to Dr. Reed's last known clinic and his residential address as shown on the CPSA register. The registered mail was returned undelivered.
 - In January the CPSA engaged an investigator to locate Dr. Reed. The investigator was able to locate Dr. Reed's residence and to confirm that the email for Dr. Reed on the CPSA register was active. The investigator advised the CPSA that Dr. Reed was scheduled to attend court in Saskatchewan for a provincial court civil matter on January 25, 2024.
 - Ms. W■■■■ then engaged a process server to serve Dr. Reed with the Notice of Hearing. The process server made numerous unsuccessful attempts and attended the provincial court matter in Saskatchewan on January 25, 2024. Dr. Reed did not appear for that provincial court matter.
 - On February 13, 2024 and March 5, 2024 Ms. W■■■■ again attempted service on Dr. Reed through registered mail and regular mail.
8. Ms. Zimmer advised the Hearing Tribunal that each attempt to serve appears to have been unsuccessful, but she submitted that under s. 120(3) of the *HPA*, service should be deemed effective as of December 6, 2023 through sending the Notice of Hearing and Notice to Attend and reasonable particulars by registered mail to the address shown on the register. Section 120(3) of the *HPA* provides that notice is given to an investigated person by sending the Notice of Hearing by registered mail to the investigated person at that person's address as shown on the register.
9. Ms. Zimmer marked as Exhibit 3 at the hearing a statutory declaration by a legal assistant at the law firm of Shores Jardine. In the statutory declaration the legal assistant stated that she had attempted to send Dr. Reed a letter providing him with access to the production of the Complaints Director on several occasions, the last being March 1, 2024. Ms. Zimmer advised that there was evidence that Dr. Reed had used his email address on March 29, 2024 in order to access the secured link he had been sent by the legal assistant. That evidence was attached to the statutory declaration as Exhibit "B".
10. Ms. Zimmer presented the additional evidence in the statutory declaration so that the Hearing Tribunal could, if it so chose, find that Dr. Reed was aware of the hearing through his email address but had chosen not to respond or attend. She confirmed this was not a necessary determination in order for the hearing to proceed in light of s. 120 (3) of the *HPA*.

11. The Hearing Tribunal adjourned at the conclusion of this evidence to decide whether to grant the Complaints Director's application to proceed with the hearing in the absence of Dr. Reed.
12. Following the Hearing Tribunal's deliberations, the Hearing Panel advised that it was satisfied that Dr. Reed had been served in the manner contemplated by s. 120(3) of the *HPA* and that adequate notice had been given over and above that requirement. Accordingly, the Hearing Tribunal directed that the hearing proceed in Dr. Reed's absence.

III. CHARGES

13. The Notice of Hearing listed the following allegation:
 1. Since December 2022 you have failed or refused to provide documentation to the Complaints Director of the College of Physicians and Surgeons of Alberta, particulars of which include:
 - a. confirming the status and outcome of a criminal investigation into an allegation by ██████████ that on or about June 3, 2022 you had breached the terms of a probation order issued by Saskatchewan Provincial Court Judge L. W█████████ on October 28, 2021; and
 - b. confirmation that your conditional discharge ordered by the Saskatchewan Provincial Court on October 28, 2021 was fulfilled and the discharge was implemented on or about October 28, 2022.

IV. EVIDENCE

14. The evidence before the Hearing Tribunal consisted of the evidence of Ms. B█████████ G█████████ and a series of Exhibits entered into evidence during her testimony as follows:
 - Exhibit 4: Letter from B█████████ G█████████ to S█████████ F█████████ dated December 12, 2022;
 - Exhibit 5: Letter from B█████████ G█████████ to Dr. Jeremy Reed dated March 20, 2023;
 - Exhibit 6: Communications Log;
 - Exhibit 7: Letter from B█████████ G█████████ to Dr. Jeremy Reed dated May 4, 2023;
 - Exhibit 8: Chain of email correspondence from B█████████ G█████████ to Dr. Jeremy Reed;
 - Exhibit 9: Letter from B█████████ G█████████ to Dr. Jeremy Reed dated July 12, 2023;
 - Exhibit 10: Letter from B█████████ G█████████ to Dr. Jeremy Reed dated August 24, 2023;

- Exhibit 11: Letter from S [REDACTED] F [REDACTED] to T [REDACTED] D [REDACTED] (CPSA) dated October 20, 2022.
15. Ms. G [REDACTED] testified that she was the Associate Complaints Director for the College of Physicians and Surgeons of Alberta ("CPSA") as well as the program manager for the CPSA hearing legal referral process. In that role she acted as a delegate of the Complaints Director and managed the process to assess and prepare matters for hearings and had been managing Dr. Reed's file since the opening of the complaint against him in May of 2022.
 16. Ms. G [REDACTED] initiated a complaint against Dr. Reed under s. 56 of the *HPA* as a result of the Complaints Director becoming aware that Dr. Reed was subject to criminal proceedings.
 17. At the time of the initiation of the complaint, Dr. Reed was a regulated member of the CPSA. He ceased to be a regulated member of CPSA in February of 2023.
 18. The initial s. 56 complaint was sent to Dr. Reed in June of 2022. After several attempts were made to obtain a response from him, Dr. Reed provided a response which Ms. G [REDACTED] characterized as vague. A further request for information was made and a more detailed response was received from a lawyer acting for Dr. Reed dated October 22, 2022 (Exhibit 11).
 19. The October 22, 2022 letter indicated that Dr. Reed had received a conditional discharge with respect to three criminal charges. That conditional discharge was to expire near the end of October of 2022. An allegation of a breach of the conditions of the conditional discharge was to be dealt with on or about December 1, 2022 by way of a stay of proceedings, if there were no further incidents.
 20. In December of 2022 Ms. G [REDACTED] followed up with Dr. Reed requesting an update as to the disposition of the criminal charges (Exhibit 4). No response was received to a number of further requests in March, April and May (Exhibits 5 -7).
 21. On May 17, 2023 Dr. Reed emailed the CPSA and advised that his lawyer was no longer acting for him. He requested a password to access the May 4 letter from Ms. G [REDACTED]. Dr. Reed was sent the password and emailed back the same day, advising he was free and clear of probation when it was completed. Ms. G [REDACTED] did not consider the response sufficient and requested documentation and further information. On the same date, May 17, 2023, Dr. Reed indicated he would do his best to locate the requested documentation. The email exchanges of May 17, 2023 were marked as Exhibit 8.
 22. There was nothing further from Dr. Reed and on July 12, 2023 Ms. G [REDACTED] sent a letter to Dr. Reed informing him that the scope of the investigation into his conduct had been expanded to include his failure to cooperate and respond

(Exhibit 9). In the letter Ms. G [REDACTED] asked Dr. Reed to respond to this expanded scope of investigation by August 9, 2023. Ms. G [REDACTED] also indicated that if Dr. Reed failed to respond, the matter would be referred to a disciplinary hearing.

23. Having not received a response to Exhibit 9 from Dr. Reed, Ms. G [REDACTED] sent a letter dated August 24, 2023 (Exhibit 10) advising that she had sent a Notice to Hearing to the Hearing Director and that the Hearing Director would be contact him to canvass his availability for the hearing. Ms. G [REDACTED] testified that she did not receive a response to Exhibit 10 and had received no further correspondence from Dr. Reed up to and including the date of the hearing.
24. The Hearing Tribunal asked Ms. G [REDACTED] to clarify whether it was being asked to make a decision with respect to the original s. 56 complaint, or only the complaint relating to the failure to respond. Ms. G [REDACTED] advised that the complaint relating to the criminal charges had not proceeded further at this point because Dr. Reed's failure to respond meant that there was insufficient information to do so.
25. In the context of that question, Ms. Zimmer asked to mark a letter from Dr. Reed's counsel to T [REDACTED] D [REDACTED] at the CPSA dated October 20, 2022 as the next exhibit (Exhibit 11). This letter provided specific information about the status of Dr. Reeds' criminal charges and was the letter which Ms. G [REDACTED] had indicated led to her further inquiries in December of 2022 that had not been adequately answered by Dr. Reed.
26. Ms. Zimmer confirmed to the Hearing Tribunal that the failure to respond allegation against Dr. Reed started on December 12, 2022 when the CPSA had sent Exhibit 4, the letter requesting that Dr. Reed provide further information regarding the matters disclosed in Exhibit 11.

V. SUBMISSIONS

27. In her submissions, Ms. Zimmer advised that the hearing before the Hearing Tribunal involves a charge of unprofessional conduct related to Dr. Reed's repeated failure to respond to the CPSA in a timely manner or at all. She explained that the role of the Hearing Tribunal is to determine whether the Complaints Director had proven the conduct alleged in the Notice of Hearing and if so whether that conduct rises to the level of unprofessional conduct under the *HPA*. Ms. Zimmer stated that the onus is on the Complaints Director to prove both of those matters on a balance of probabilities.
28. Ms. Zimmer then took the Hearing Tribunal through the evidence of Ms. G [REDACTED] and the many attempts made by the CPSA to obtain documents from Dr. Reed for the purpose of the investigation into the s. 56 complaint. She referred the Hearing Tribunal to Exhibits 4 through 9 which she submitted demonstrated that the CPSA had made at least six attempts from December 12, 2022 to July 2023 to obtain information from Dr. Reed. She also referred to the August 24, 2023 letter sent by Ms. G [REDACTED] to Dr. Reed regarding the matter being directed

to a hearing and that there had been no response to that correspondence either.

29. Ms. Zimmer submitted that the email exchanges on May 17, 2023 were evidence that Dr. Reed knew of the attempts CPSA was making to contact him to obtain information that it required, and that he still did not provide that information. She also pointed to the evidence before the Hearing Tribunal that Dr. Reed was sent notice of the hearing on a number of occasions and had not appeared.
30. It was Ms. Zimmer's submission on behalf of the Complaints Director that as members of a self-regulated profession physicians have a responsibility to cooperate with the CPSA as their regulatory body. She submitted that it is for that reason that the *HPA* specifically includes a failure or refusal to comply with a request of or cooperate with an investigator in the definition of "unprofessional conduct" in section 1(1)(pp)(vii)(b).
31. Ms. Zimmer provided the Hearing Tribunal with two decisions from Canadian courts which commented on the obligation of a regulated member of a profession to cooperate with their regulator.
32. In *Al-Naami v CPSA 2023 ABQB 549*, the Court stated that "(t)he canopy that defines the College's decision space is formed not only by the public interest but by the College's relationship with its members" and that one aspect of that relationship is the members duty to cooperate with the College in investigation.¹
33. The Court in *Al-Naami* went on to refer to a decision out of Ontario which had highlighted the fundamental obligation of every professional to comply with his or her self-governing body.²
34. Ms. Zimmer also asked the Hearing Tribunal to consider the fact that Dr. Reed's lack of meaningful response to the CPSA had prolonged and complicated the initial s. 56 complaint and effectively prevented the CPSA from pursuing that complaint as of the date of the hearing.

VI. FINDINGS

35. The Hearing Tribunal adjourned to deliberate and then returned to advise that its reasons for decision would follow in due course.
36. The Hearing Tribunal is satisfied that the Complaints Director established on a balance of probabilities that since December 2022 Dr. Reed has failed or refused to provide the documentation requested by the CPSA, including:

¹ At paragraphs 101 and 102.

² *Artinian v. CPSO* [1990] O.J. No. 1116

- a. documentation confirming the status and outcome of a criminal investigation into an allegation by ██████████ that Dr. Reed breached the terms of an October 28, 2021 probation order; and
 - b. documentation confirming that Dr. Reed's condition discharge ordered by the Saskatchewan Provincial Court on October 28, 2021 was fulfilled and the discharge implemented on or about October 28, 2022.
37. The Hearing Tribunal is also satisfied that Dr. Reed's failure to provide the requested documentation to the CPSA is conduct that constitutes unprofessional conduct under the definition in the *HPA*.

VII. DECISION WITH REASONS

38. The Hearing Tribunal is extremely troubled by the pattern of behaviour demonstrated by Dr. Reed towards the communications from the CPSA commencing in December 12, 2022.
39. In her letter of December 12, 2022(Exhibit 4), Ms. G█████ made a simple request; she simply asked Dr. Reed to provide advice as to the status of his criminal charges. This inquiry arose out of the information in the letter from Dr. Reed's lawyer (Exhibit 11) in October. In particular, that lawyer indicated that Dr. Reed had pleaded guilty to three charges and received a conditional discharge with respect to three charges and that prior to the conditional discharge expiring there had been a further allegation that Dr. Reed had breached the probation conditions of this conditional discharge.
40. As testified by Ms. G█████, Exhibit 11 appeared to indicate that all matters should be resolved by December of 2022 as the conditional discharge was to expire/conclude on October 28, 2022 and in the absence of any further alleged incidents, the Crown was prepared to enter a stay in relation to the other allegation on December 1, 2022.
41. Notwithstanding the apparently straightforward nature of the December 12, 2022 request, Dr. Reed did not respond. Ms. G█████ followed up specifically explaining that she was looking for confirmation that the conditional discharge had expired and the other allegation had been disposed of by way of a stay of proceedings on December 1, 2022 in accordance with the information in the letter from his lawyer.
42. Ms. G█████ then left a voicemail on April 14, 2023 referring to the two letters and warning of the escalation of the matter (Exhibit 6). No response was received.
43. On May 4, 2023 Ms. G█████ sent a letter by email and registered mail referring to the previous communications advising Dr. Reed of his obligation to respond to the CPSA and warning about the consequences of a continued non-response.

44. It is clear that Dr. Reed received the email from the CPSA attaching the May 4, 2023 correspondence from Ms. G■■■■, because he responded requesting the password for the attachment. He also emailed the CPSA indicating that he had seen the letter and that he was free and clear of all charges and probation. He advised that probation had been completed on October 27, 2022. He also apologized for the lack of response, advising of absolute chaos in his life following a divorce proceeding.
45. Ms. G■■■■ responded the same day requesting that Dr. Reed provide a copy of the Probation Order and any other Court documents that he might have indicating that the conditional discharge expired on October 27, 2022 and in relation to the stay of proceeding of the remaining allegation against him.
46. Although Dr. Reed responded immediately to Ms. G■■■■ on May 17, 2023 indicating he would try to find what documentation he could, that is the last communication received by the CPSA from Dr. Reed in relation to this matter.
47. Dr. Reed never provided the requested documentation. Nor did he provide any explanation for his failure to do so. On July 12, 2023 Ms. G■■■■ sent Dr. Reed a detailed letter by email warning of the consequences of a failure to respond. She advised that the investigation into Dr. Reed's conduct had been expanded to include his lack of cooperation and response with the investigation and demanded a response from Dr. Reed by August 9, 2023.
48. Dr. Reed did not respond to this letter either. A further letter was sent on August 24, 2023 attaching the draft Notice of Hearing that had been submitted to the Hearing Director relating to this hearing.
49. Despite evidence that indicated that Dr. Reed's email address was active as recently as March 29, 2024, Dr. Reed did not communicate with the CPSA with respect to this hearing and has not communicated with the CPSA since May 17, 2023. He did not appear before this Hearing Tribunal.
50. It may be that Dr. Reed did not have the requested court documents and was unable to obtain them. There may have been some other reason that Dr. Reed was unable to meet the deadlines he was asked to meet. However, in the absence of any explanation whatsoever from Dr. Reed, the Hearing Tribunal can only conclude that Dr. Reed does not consider it his obligation to respond to the CPSA's inquiries, communicate with the CPSA or cooperate with its investigation.
51. The Hearing Tribunal accepts the submissions of counsel for the Complaints Director that it is a fundamental obligation of any regulated professional to comply with requests and directions from their governing body. Professions that have the right to self-governance must be able to demonstrate to the public that their members understand that fundamental obligation.

52. The Hearing Tribunal also accepts that it is precisely because of the importance of this obligation that “unprofessional conduct” in the *HPA* is defined to include the failure to comply with a request of or co-operate with an investigator.
53. The Hearing Tribunal notes that it is Dr. Reed’s failure to answer the inquiries from the CPSA that has hampered the CPSA’s ability to investigate the initial s. 56 complaint arising from his criminal charges. That is completely unacceptable to the Hearing Tribunal.
54. Dr. Reed’s conduct is unprofessional, not only based on the definition in the *HPA* but also because that conduct undermines the integrity of the medical profession.

VIII. ORDERS

55. The Hearing Tribunal directs that these reasons for decision be sent to Dr. Reed at the email address on the CPSA register so that he is aware of the findings of the Hearing Tribunal and that the next step in these proceedings is for the Hearing Tribunal to determine the appropriate sanction and costs and issue the appropriate orders.
56. The Hearing Tribunal will receive submissions on sanction in writing, though either party may request an oral hearing to address sanctions and the Hearing Tribunal would then determine whether to hold an oral hearing. The Complaints Director is asked to provide written submissions on sanction within four weeks of receiving this decision. Dr. Reed is asked to provide his written submissions on sanction within a further two weeks. Either party may write to the Hearing Tribunal requesting a variation of these timelines or an oral hearing.

Signed on behalf of the Hearing Tribunal by the Chair:



Mr. Terry Engen

Dated this 15th day of August, 2024.