

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. MANCHO NG

**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. Mancho Ng on July 10, 2019. The members of the Hearing Tribunal were:

Dr. William Craig of Edmonton as Chair, Dr. Neelam Mahil of Edmonton and Ms. Nancy Brook of Ryley (public member). Mr. Matt Woodley acted as independent legal counsel for the Hearing Tribunal.

In attendance at the hearing was Mr. Joseph Redman, legal counsel for the Complaints Director of the College of Physicians and Surgeons of Alberta. Also present was Dr. Mancho Ng and Mr. William Hembroff, legal counsel for Dr. Ng.

II. PRELIMINARY MATTERS

Neither party objected to the composition of the Hearing Tribunal (the "Tribunal") or its jurisdiction to proceed with the hearing. There were no matters of a preliminary nature.

The hearing was open to the public, and one member of the public attended.

III. CHARGES

The Notice of Hearing listed the following charges:

1. You did create and submit to the General Medical Council of the United Kingdom a document purporting to be a Certificate of Professional Conduct dated August 30, 2017 issued by the College of Physicians and Surgeons of Alberta (the "College") when you knew that the College had not actually issued that document.

IV. EVIDENCE

The following Exhibits were entered into evidence during the hearing:

- Exhibit 1: Notice of Hearing dated 4 June 2019
- Exhibit 2: Admission and Joint Submission Agreement dated 8 July 2019
- Exhibit 3: Agreed Statement of Facts dated 8 July 2019
- Exhibit 4: Exhibit Book

The Agreed Statement of Facts states:

It is agreed that the following facts can be accepted by the Hearing Tribunal as having been proven:

1. *At all material times, Dr. Mancho Ng ("Dr. Ng") has been a regulated member of the College of Physicians and Surgeons of Alberta (the "College")*
2. *A valid Certificate of Professional Conduct ("CPC") was issued by the College to Dr. Ng, dated April 30, 2016, confirming no terms, conditions or restrictions on licensure.*

3. *Dr. Ng did not practice in Alberta between August 2016 and August 2017 and had a valid CPC been issued to Dr. Ng in August 2017, no terms, conditions or restrictions on licensure would have been noted.*
4. *Dr. Ng was served with the Notice of Hearing on June 5, 2019.*

V. SUBMISSIONS

At the commencement of the hearing, and after waiving a reading of the allegation, Dr. Ng indicated on the record that he admitted the allegation set out in the Notice of Hearing. He also admitted through the Admission and Joint Submission Agreement that his conduct constituted “unprofessional conduct” as that term is defined in section 1(1)(pp) of the *Health Professions Act*.

Mr. Redman on behalf of the Complaints Director provided his submissions. He indicated that this matter relates to the submission by Dr. Ng of a document to the General Medical Council (the regulator of the medical profession in the United Kingdom) (“GMC”) which he knew at the time was a false document, which had been altered in advance of the submission.

Specifically, Mr. Redman indicated that Dr. Ng had applied to the CPSA for a “Certificate of Professional Conduct (“CPC”) in August of 2016 for the purpose of allowing him to engage in a fellowship in the United Kingdom. The GMC required such a certificate for the purpose of allowing him to register. The CPSA issued a CPC on August 30, 2016 and Dr. Ng provided that CPC to the GMC in the fall of 2016.

At the conclusion of his fellowship, Dr. Ng was preparing to return to Canada. He was advised that he had to provide another CPC to the GMC at the conclusion of his registration with that organization. Ultimately, Dr. Ng altered the August 30, 2016 CPC to make it appear as if it had been issued by the CPSA on August 30, 2017, and he then submitted that altered document to the GMC.

The GMC contacted the CPSA to confirm whether the document had, in fact, been issued, and it was discovered that it had not. The CPSA commenced an investigation which ultimately resulted in the allegation in the Notice of Hearing and this hearing. Mr. Redman clarified that the purpose for the alteration and submission of the CPC was simply for the purpose of taking a “shortcut” and was not done for the purpose of hiding or covering up any disciplinary proceedings that might have appeared on a true CPC; in fact, Dr. Ng had a clean record, and had a new CPC been issued it would have reflected that fact. Mr. Redman indicated that Dr. Ng’s conduct was contrary to the Canadian Medical Associations’ *Code of Ethics* in general, and was therefore unprofessional conduct.

Mr. Hembroff largely agreed with the submissions made by Mr. Redman, and expressed Dr. Ng’s regret for his actions. He referred the Tribunal to a letter prepared by Dr. Ng immediately upon being notified by the CPSA of the complaint against him (dated December 21, 2017), wherein he

immediately apologized and expressed sincere regret for his actions. Mr. Hembroff indicated that Dr. Ng was taking responsibility for his actions and that he had done so at a very early stage.

VI. FINDINGS

After deliberating on the submissions of the parties, the Tribunal accepted the admission of unprofessional conduct pursuant to section 80(1) of the *Health Professions Act*.

The Tribunal is satisfied that the conduct engaged in by Dr. Ng represents a serious breach of his ethical obligations as a physician. Dr. Ng submitted an altered document which he claimed to have been issued by his professional regulator to another professional regulator with the intention that it would be relied upon. The CPSA Code of Ethics provides specific expectations for a physician's accountability. On page 2 of 4, items b and c read, "As a physician, I will: (b) Maintain high standards of personal and professional honesty and integrity. (c) Take responsibility for my own behavior and ethical conduct regardless of the circumstances." Dr. Ng did not follow either of these two specific expectations. To maintain trust in the medical profession, physicians need to be honest and act with integrity. As such, this breach not only tarnishes Dr. Ng's reputation, but also brings the profession into disrepute.

VII. ORDERS

Following the acceptance of the admission and the finding of unprofessional conduct pursuant to section 80(1), the Tribunal heard submission from the parties in relation to the joint submission agreement. The parties jointly submitted that the following sanctions were appropriate:

- a. *Dr. Ng shall receive a three-month suspension of his practice permit, of which one month shall be served starting on the date acceptable to the Complaints Director, and the remaining two months held in abeyance pending fulfillment of the further terms and conditions imposed by the Hearing Tribunal and Dr. Ng maintaining good conduct for a period of 12 months following the date of the decision of the Hearing Tribunal.*
- b. *Dr. Ng shall, at his own cost, complete an ethics course as determined by the Complaints Director, and such course shall be successfully completed and a Certificate of Completion provided to the Complaints Director no later than March 31, 2020;*
- c. *Dr. Ng shall be responsible for the payment costs, of the investigation and the hearing, on payment terms acceptable to the Complaints Director or as determined by the Hearing Tribunal.*
- d. *The Complaints Director, on notice to Dr. Ng, may apply to "[a]" Hearing Tribunal to have all or a portion of the remaining period of suspension imposed as an active suspension if Dr. Ng has failed to fulfill the terms and conditions imposed by the Hearing Tribunal.*

Mr. Redman on behalf of the Complaints Director provided the Tribunal with an overview of the law relating to sanctions following a finding of unprofessional conduct in the professional regulatory area. Mr. Redman referred the Tribunal to the factors that disciplinary committees

normally consider in these matters, summarized in *Jaswal v. Medical Board (Newfoundland)* (1996), 138 Nfld & PEIR 181. Specifically, Mr. Redman discussed the need for a sanction to accomplish the objectives of denunciation (specific and general) and rehabilitation. Mr. Redman reviewed the factors considered by the Court in *Jaswal*, noting specifically the seriousness of the conduct, the young age of Dr. Ng and that he is at the commencement of his career, the fact that there are no other previous disciplinary findings, and the range of sanctions in other cases. On that last issue, Dr. Redman provided the Tribunal with summaries of the pertinent facts and sanctions in each of *Ontario (College of Physicians and Surgeons of Ontario) v Rassouli-Rashti*, 2009 ONCPSD 7, *Ontario (College of Physicians and Surgeons of Ontario) v Metcalfe*, 2007 ONCPSD 18, and *Re Malhotra*, 2005 CanLII 60058.

Mr. Redman indicated that the Complaints Director believes that the seriousness of the misconduct here requires a suspension, and that the three month suspension with two months held in abeyance pending a period of good conduct, is consistent with the *Jaswal* factors and the need for general and specific deterrence. He indicated that the requirement for Dr. Ng to complete an ethics course is consistent with the objectives of sentencing in the professional disciplinary area including the need for rehabilitation. Further, the requirement for Dr. Ng to pay for the costs of the investigation and hearing are consistent with the objective of deterrence.

Finally, Mr. Redman addressed the approach which the Tribunal ought to take when considering a joint proposal on sanction. Mr. Redman indicated that the law in the area indicates that such joint proposals are made on an “as-is” basis, and that the Tribunal should consider that the parties had considered other options, but had arrived at what they believed was a just sanction in the circumstances. Mr. Redman also indicated that a disciplinary tribunal should only reject a joint submission where it found that the proposal would bring the administration of justice into disrepute, or would be contrary to the public interest. In that case, the Tribunal should provide an opportunity for the parties to make submissions on the issue, and the member should have the opportunity to withdraw the admission.

Mr. Hembroff largely agreed with the submissions made by Mr. Redman. He added, however, that it is important for the Tribunal to recognize that Dr. Ng cooperated with the Complaints Director, and essentially accepted the joint submission initially proposed by him. He indicated that the letter from Dr. Ng to the CPSA expressed his early remorse and willingness to take responsibility for his actions. Finally, Mr. Hembroff indicated that it is very important to keep in mind that Dr. Ng’s intention in providing the altered record was not to disguise or hide any unprofessional conduct, but was rather an attempt to simply avoid the need for obtaining further paperwork.

At the Tribunal’s invitation, Dr. Ng made brief submissions, in which he echoed the sentiments in his earlier letter to the CPSA, and expressed how his engagement with the ethics course has already had an impact on his practice in a positive way.

The Tribunal has concluded that the proposed sanctions are not contrary to the public interest, and do not bring the administration of justice into disrepute. On the contrary, the Tribunal is satisfied that the proposed sanctions are proportionate in relation to the seriousness of the conduct and the mitigating factors set out above. A suspension is warranted in the interests of deterrence, and the ethics course is appropriate for rehabilitation. A reprimand would be insufficient in these circumstances.

In coming to this conclusion, the Tribunal wishes to stress that an essential fact in this case which supports the proposed sanction is that Dr. Ng's intention in submitting the altered document was not to cover-up or hide any disciplinary findings; on the contrary, it was done as a "short-cut" to avoid what he saw as administrative red-tape. Had the Tribunal found that there was an intention to cover up clinical misconduct, the sanction here would have been more serious to meet the public interest test identified by Mr. Redman. In the Tribunal's view, this distinction is essential for a full understanding of the facts of this case and the rationale for the Tribunal's decision to accept the joint submission.

For all of those reasons, the Tribunal imposes the sanctions set out in paragraph 5 of the Admission and Joint Submission Agreement (Exhibit 2). In relation to sub-paragraph (d), this panel of the Tribunal is not seized of the matter.

Signed on behalf of the Hearing Tribunal by
the Chair

Dated: August 23rd 2019

William Craig
Dr. William Craig