

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. PETER IDAHOSA

**DECISION OF THE HEARING TRIBUNAL OF
THE COLLEGE OF PHYSICIANS
& SURGEONS OF ALBERTA
April 30, 2024**

I. INTRODUCTION

- [1] The Hearing Tribunal of the College of Physicians & Surgeons of Alberta (“**CPSA**”) held a hearing into the conduct of Dr. Peter Idahosa by videoconference on March 19, 2024.
- [2] The members of the Hearing Tribunal were:
Dr. Fraulein Morales as Chair;
Dr. John Pasternak;
Ms. Dianna Jossa (public member);
Mr. Don Wilson (public member).
- [3] Appearances:
Dr. Gordon Giddings, Complaints Director;
Mr. Craig Boyer and Ms. Tracy Zimmer, legal counsel for the Complaints Director;
Dr. Peter Idahosa, (the “**Investigated Person**”);
Ms. Taryn Burnett, Ms. Erin Runnalls and Mr. David Isilebo, legal counsel for Dr. Idahosa;
Ms. Julie Gagnon, independent legal counsel for the Hearing Tribunal;
Ms. Jennifer White, Hearing Facilitator.

II. PRELIMINARY MATTERS

- [4] Prior to the hearing, Dr. Idahosa requested an adjournment of the hearing. The Hearing Tribunal considered the request and issued an interim written decision on March 11, 2024, denying the request for an adjournment.
- [5] There were no objections to the composition of the Hearing Tribunal or the jurisdiction of the Hearing Tribunal to proceed with the hearing.
- [6] The Chair noted that the hearing was open to the public under section 78 of the *Health Professions Act*, RSA 2000, c H-7 (the “**HPA**”), unless an application was brought to close the hearing. Counsel for the Complaints Director confirmed that the Complaints Director was not applying to close the hearing. Counsel for Dr. Idahosa noted that there would be an application to close the hearing at the sanction phase of the hearing.

III. CHARGES

- [7] The Notice of Hearing listed the following allegation (the “**Allegation**”):
1. During the period of January 1 to June 30, 2022, you failed to comply with the College of Physicians and Surgeons of Alberta’s (CPSA) Standard of Practice regarding Closing or Leaving a Medical Practice, particulars of which include one or more of the following:

- a. you failed to notify the CPSA in advance of closing your practice at the Braeside Medical Centre;
- b. you failed to properly ensure the secure storage and disposition of confidential patient information; and
- c. you failed to properly dispose of medications, equipment, and supplies.

IV. EVIDENCE

[8] The following Exhibits were entered into evidence during the hearing:

Exhibit 1 – Agreed Exhibit Book (containing Tabs 1 to 12):

- Tab 1 – Notice of Hearing dated September 21, 2023
- Tab 2 – Letter from lawyer, Anna Kosa, to College of Physicians and Surgeons of Alberta dated June 15, 2022
- Tab 3 – Memorandum to File by Dr. Caffaro dated June 17, 2022
- Tab 4 – Notification of Change submitted by Dr. Idahosa to CPSA dated June 16, 2022
- Tab 5 – Index and 126 photographs of Clinic taken by CPSA Investigator on June 23, 2022
- Tab 6 – Letter of Response by Dr. Dr. Idahosa dated August 15, 2022 with enclosed letter to patients and 5 photographs
- Tab 7 – Notice of Intent to Vacate Premises by Dr. Idahosa to Landlord dated December 31, 2021
- Tab 8 – CPSA Standards of Practice: Closing or Leaving a Medical Practice
- Tab 9 – Hearing Tribunal Decision dated March 6, 2022
- Tab 10 – Notice of Suspension dated May 5, 2022
- Tab 11 – Letter from CPSA to Dr. Idahosa dated May 5, 2022 regarding suspension of practice permit
- Tab 12 – Payment Schedule for Costs in CPSA matter 190168 arising from Hearing Tribunal Decision dated March 6, 2022

Exhibit 2 – Agreed Statement of Facts

Exhibit 3 – Admission and Joint Submission Agreement

[9] Dr. Idahosa admitted that the Allegation is factually proven and that his conduct was unprofessional.

V. SUBMISSIONS

Submissions on the Allegation

[10] Mr. Boyer noted that at issue in this hearing was the failure of the Investigated Person to notify the CPSA in advance of the closing of the

medical practice (the "**Clinic**"), as required by the Standards of Practice; the failure to ensure the secure storage and disposition of confidential patient information; and the failure to properly dispose of medications, equipment and supplies.

- [11] Mr. Boyer reviewed the documents in Exhibit 1. He noted that the landlord of the Clinic premises had secured the premises and contacted the CPSA promptly; as such, this was not a case of patient records getting out into the public.
- [12] Mr. Boyer noted sections 4, 8 and 10 of the Standards of Practice: *Closing or Leaving a Medical Practice*. Mr. Boyer referenced a prior case where leaving behind patient records was considered to be unprofessional conduct.
- [13] Ms. Burnett noted that she would reserve her submissions for the sanction phase.
- [14] The Hearing Tribunal requested clarification regarding section 4 of the Standards of Practice: *Closing or Leaving a Medical Practice*. Mr. Boyer clarified that section 4(a) was applicable. At issue was the failure to notify the CPSA of the closing of the Clinic. Ms. Burnett confirmed that section 4(a) was breached but that section 4(b) was met, as Dr. Idahosa had notified his patients.
- [15] The Hearing Tribunal adjourned to consider the submissions and evidence. The Hearing Tribunal advised the parties that it accepted the admission of unprofessional conduct and found the conduct in the Allegation was proven, on a balance of probabilities, and constituted unprofessional conduct. Counsel for the parties then made submissions regarding sanction.

Submissions on Sanctions

- [16] The proposed sanctions are set out in the Admission and Joint Submission Agreement (Exhibit 3).
- [17] Mr. Boyer reviewed several of the factors in *Jaswal v Newfoundland Medical Board*, [1996] N.J. 50. He noted that in considering sanction, deterrence should be considered, including specific deterrence and general deterrence, as well as rehabilitation. Mr. Boyer noted that Dr. Idahosa had one prior finding of unprofessional conduct in March 2022. Mr. Boyer noted the expectation that physicians abide by the Standards of Practice. The public would view the leaving of patient information behind in the Clinic as a very serious matter.
- [18] Mr. Boyer noted that rehabilitation is addressed in the proposed sanction through the one-on-one ethics course. Mr. Boyer referenced prior decisions where ethics courses were ordered. Mr. Boyer noted that the proposed sanction imposes a one-month suspension, but the suspension will be

deemed served if Dr. Idahosa successfully completes the one-on-one ethics course.

- [19] Mr. Boyer addressed the proposed costs, which would have a maximum cap of \$36,000 on total costs of the investigation, the adjournment application and the hearing and that Dr. Idahosa would be responsible for 30% of those costs.
- [20] Mr. Boyer submitted that the proposed sanction struck a balance between deterrence and remediation.

Closing of the Hearing

- [21] Ms. Burnett brought an application at the start of her submissions on sanction to close the hearing pursuant to section 78(1)(a)(iii) of the HPA on the basis that confidential financial information of Dr. Idahosa would be discussed. The Complaints Director did not oppose the application.
- [22] The Hearing Tribunal granted the application for the hearing to be closed during the sanction submissions by Ms. Burnett on the basis that sensitive and confidential financial information of Dr. Idahosa would be presented to the Hearing Tribunal. The Hearing Tribunal viewed that it was appropriate in the circumstances of this case that the confidentiality of the financial information of Dr. Idahosa be preserved. In addition, closing only a portion of the hearing struck an appropriate balance between preserving the confidentiality of the financial information and the principle that a hearing should be open to the public.
- [23] Ms. Burnett reviewed information relating to Dr. Idahosa's financial circumstances.

Re-Opening of the Hearing

- [24] Following Ms. Burnett's review of the financial information, the hearing was reopened to the public.
- [25] Ms. Burnett addressed the deference owed where parties present a joint submission on sanction. Ms. Burnett referenced *R v Anthony-Cook*, 2016 SCC 43, which states that a decision-maker should not depart from a joint submission on sanction unless the proposed sanction would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.
- [26] Ms. Burnett noted that there were extenuating financial circumstances that led to the closure of Dr. Idahosa's Clinic. Ms. Burnett emphasized that Dr. Idahosa did provide his patients notice of the closure and that while he ceased practice on May 9, 2022, he was not given an opportunity to do a walk-through of the premises at the time of the closure of the Clinic. Once he

was notified by the CPSA that supplies and documents had been left behind, he made arrangements to have those items removed from the premises, which was done on June 27, 2022. Ms. Burnett further submitted that at all times the records were secure and this was not a case where records had been improperly disclosed to the public. Ms. Burnett noted that Dr. Idahosa has taken full responsibility for his conduct.

- [27] Finally, Ms. Burnett submitted that the proposed sanction is reasonable, is within the acceptable range and meets the criteria in *Jaswal* for both specific and general deterrence.

VI. FINDINGS

- [28] The Hearing Tribunal carefully considered the evidence in the Exhibits and the submissions of the parties. The Hearing Tribunal the facts set out below to be established based on the information presented to the Hearing Tribunal in the Exhibits and the Investigated Person's admission.
- [29] The matter first came to the attention of the CPSA by way of a letter dated June 15, 2022 to the CPSA from the landlord of the Clinic premises. A CPSA memorandum indicates that Dr. Idahosa was contacted by the CPSA on June 16, 2022, that Dr. Idahosa advised he left the Clinic premises in February 2022 and that Dr. Idahosa was advised to immediately access his Physician Portal on the CPSA website and enter the appropriate change of address information.
- [30] Exhibit 1 contains the CPSA Registration form – Notification of Change. Dr. Idahosa noted that the changes to the Clinic were effective as of May 9, 2022.
- [31] While Dr. Idahosa did eventually notify the CPSA that he was closing his Clinic, this was after the actual closing and not in advance, as required by the Standards of Practice: *Closing or Leaving a Medical Practice*.
- [32] The Hearing Tribunal found that it was not clear if the premises were closed on May 9, 2022 or prior to that date, as the CPSA memorandum indicates the dated of February 2022. However, the exact date does not need to be determined for the purpose of finding that the Allegation is proven. What is clear is that Dr. Idahosa left the practice and closed the Clinic prior to notifying the CPSA.
- [33] Exhibit 1 also contained photographs taken by the CPSA investigator who attended at the Clinic premises in June 2022, after the matter came to the attention of the CPSA. These photographs confirm that there were documents left in the Clinic containing patient information, including patient names, date of birth and other personal information, as well as health information such as personal health numbers, medications, and diagnosis.

- [34] The photographs also confirm that medications, medical supplies and equipment remained at the premises.

VII. DECISION WITH REASONS

Decision on the Allegation

- [35] The Hearing Tribunal finds that the Allegation is proven on a balance of probabilities, having considered the admission by Dr. Idahosa and the information contained in Exhibit 1. The Hearing Tribunal finds that the proven conduct is a breach of the CPSA's Standards of Practice: *Closing or Leaving a Medical Practice* and is sufficiently serious to constitute unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA.
- [36] Dr. Idahosa failed to notify the CPSA a minimum of 90 days prior to closing of his practice. The CPSA Registration form Notification of Change is dated June 16, 2024; however, his practice was closed prior to that date. It is imperative that physicians provide up to date contact information to the CPSA. This is required so that the CPSA can provide accurate information to patients or the public regarding a physician. It is also critical for the CPSA to have current information so that it can provide the appropriate oversight over its regulated members. This is necessary for the CPSA to fulfill its mandate to ensure the protection of the public and the public interest.
- [37] While the landlord secured the premises and ensured that no patient records were released publicly and that no members of the public had access to the medications, medical supplies and equipment, the responsibility to securely store or dispose of patient records, medications and medical equipment and supplies, rests with the physician and not a landlord.
- [38] A physician who closes or leaves a medical practice is responsible for the secure storage and disposition of the patient records from the practice. The public must have confidence that their medical records and personal information are kept private and secure. Confidentiality is at the heart of the physician-patient relationship. The Hearing Tribunal viewed this breach by Dr. Idahosa as egregious and as the most serious of the particulars in the Allegation. Such a breach undermines the public's confidence in the medical profession. While patient information was not ultimately disclosed to the public, this was due to the actions of the landlord in contacting the CPSA.
- [39] Further, a physician who closes or leaves a medical practice must dispose of medications, equipment and supplies in a safe manner. There are important safety concerns that can occur if the public has access to medications or to equipment used for medical procedures. There may also be safety concerns with exposure to expired medications.
- [40] The Standard of Practice: *Closing or Leaving a Medical Practice* provides at sections 4(a), 8 and 10:

4. A regulated member who closes or leaves a medical practice must:
 - a. notify CPSA a minimum of ninety (90) days in advance of closing or leaving the practice...
8. A regulated member who closes or leaves a medical practice is responsible for the secure storage and disposition of the patient records from that medical practice.
10. A regulated member who closes or leaves a medical practice must dispose of medications, equipment and supplies in a safe manner.

[41] During the period of January 1 to June 30, 2022, Dr. Idahosa failed to comply with the Standard of Practice: *Closing or Leaving a Medical Practice*, as follows: he failed to notify the CPSA in advance of closing his practice at the Clinic; he failed to properly ensure the secure storage and disposition of confidential patient records; and he failed to properly dispose of medications, equipment, and supplies.

[42] Dr. Idahosa's conduct is a clear breach of the Standard of Practice: *Closing or Leaving a Medical Practice*, sections 4(a), 8 and 10. The conduct is serious and, for the reasons noted above, constitutes unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA.

Decision on Sanction

- [43] The Hearing Tribunal considered the evidence presented regarding Dr. Idahosa's financial circumstances and the submissions of the parties on sanction. The Hearing Tribunal determined that the proposed sanction is reasonable and appropriate in the circumstances of this case.
- [44] The Hearing Tribunal considered that Dr. Idahosa has a prior finding of unprofessional conduct. However, the conduct at issue in this hearing is not the same as in the prior hearing, and as such Dr. Idahosa has not engaged in the same type of repeated misconduct.
- [45] The Hearing Tribunal found that the admission by Dr. Idahosa was a mitigating circumstance in this case. The Hearing Tribunal also considered the submission by Ms. Burnett that Dr. Idahosa was not given an opportunity to do a walk-through of the premises at the time of the closure of the Clinic. While this may be a mitigating factor, it does not absolve Dr. Idahosa of his responsibilities to his patients or to the CPSA.
- [46] The Hearing Tribunal found that the suspension is appropriate in terms of both specific and general deterrence. A suspension underlines the seriousness of the breaches, in particular the breaches related to patient information. A suspension also serves to maintain the public's confidence in

the integrity of the profession and the ability of the profession to self-regulate. In this case, the Hearing Tribunal confirms that it is appropriate that the suspension be waived if Dr. Idahosa completes the terms of the order.

- [47] The sanction appropriately addresses rehabilitation. The Hearing Tribunal considered that the ethical course will serve to protect the public interest. The ethical course is a one-on-one course which will focus specifically on Dr. Idahosa's conduct so that he may gain a better understanding of the concerns regarding his conduct and his professional obligations.
- [48] The Hearing Tribunal found that the proposed costs order of 30% is appropriate in this case. The conduct was serious. In particular, the Hearing Tribunal found that the patient information left in the Clinic to be a very serious breach of the Standards of Practice. The proposed costs are in keeping with the recent Alberta Court of Appeal decision in *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336.
- [49] The Hearing Tribunal considered the level of deference owed to a joint submission. The Hearing Tribunal finds that the proposed sanction is reasonable and serves to protect the public interest. The proposed sanction would not bring the administration of justice into disrepute.

VIII. ORDERS

- [50] The Hearing Tribunal accepts the proposed sanction and hereby orders as follows, under section 82 of the HPA:
1. Dr. Idahosa's practice permit shall be suspended for one month, and it shall be served starting on February 1, 2025 if Dr. Idahosa fails to engage in and complete the other terms of the Hearing Tribunal Order.
 2. Dr. Idahosa shall engage in, at his own cost, a one-on-one ethical remediation course with Dr. Brendan Leier, medical ethicist, which shall commence no later than June 1, 2024 and be completed no later than December 31, 2024.
 3. Dr. Leier shall be provided with a copy of the Hearing Tribunal decision in this matter, the March 6, 2022 Hearing Tribunal decision, and the Exhibits in this matter.
 4. The Complainants Director shall be given an interim report and a final report by Dr. Leier regarding the ethical remediation undertaken by Dr. Idahosa.
 5. If the Complaints Director is satisfied with the final report from Dr. Leier, the suspension of Dr. Idahosa's practice permit shall be deemed served.

6. The Hearing Tribunal shall retain jurisdiction to determine any issues arising from performance of the terms of this Order.
7. Dr. Idahosa shall be responsible for 30% of the costs of the investigation, the adjournment application and the hearing (the total costs of which are not to exceed a maximum of \$36,000) payable by equal monthly installments over 36 months to start on March 1, 2025.

Signed on behalf of the Hearing Tribunal by the Chair:

A handwritten signature in black ink, appearing to read 'Dr. Fraulein Morales', written in a cursive style.

Dr. Fraulein Morales

Dated this 30th day of April, 2024.