

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. DOUG CODDINGTON

**DECISION OF THE HEARING TRIBUNAL OF
THE COLLEGE OF PHYSICIANS
& SURGEONS OF ALBERTA
MARCH 25, 2024**

I. INTRODUCTION

1. The Hearing Tribunal held a hearing into the conduct of Dr. Doug Coddington on January 30, 2024. The members of the Hearing Tribunal were:

Mr. Douglas Dawson as Chair (and public member);
Dr. Fraulein Morales;
Dr. Melanie Stapleton;
Ms. Sarita Dighe-Bramwell (public member).

Also present were:

Mr. Craig Boyer, legal counsel for the Complaints Director;
Dr. Doug Coddington;
Mr. Kristian Duff and Ms. Emily McCartney, legal counsel for Dr. Coddington.

Ms. Mary Marshall acted as independent legal counsel for the Hearing Tribunal.

II. PRELIMINARY MATTERS

2. 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.
3. The hearing was open to the public pursuant to section 78 of the *Health Professions Act*, RSA 2000, c. H-7 ("HPA"). There was no application to close the hearing.

III. CHARGES

4. The Notice of Hearing listed the following allegation (the "Allegation"):
 1. On or about March 30, 2022, you did demonstrate conduct that harms the integrity of the profession of medicine in that you did put your hands on a nursing colleague during a dispute over the consent process for a patient who required appendectomy surgery;
 2. (Withdrawn).
5. The hearing proceeded on the basis of an Admission and Joint Submission Agreement.

IV. EVIDENCE

6. The following Exhibits were entered into evidence during the hearing:

- Exhibit 1:** Agreed Exhibit Book
- Tab 1:** Notice of Hearing dated May 12, 2023
 - Tab 2:** Complaint by Nurse [REDACTED] dated April 3, 2022
 - Tab 3:** Email from Constable Jason Coley of the Calgary Police Service to [REDACTED] dated June 2, 2022, re criminal investigation
 - Tab 4:** Letter to K. Damron, CPSA, from Dr. Coddington with response to complaint dated July 12, 2022, with patient records
 - Tab 5:** Letter from M. Heck, CPSA investigator, to Constable Coley dated September 27, 2022
 - Tab 6:** Email from Constable Coley to M. Heck dated September 27, 2022
 - Tab 7:** Letter from E. McCartney to M. Heck dated November 14, 2022, confirming ongoing criminal proceedings
 - Tab 8:** Letter from AHS to Dr. Coddington dated November 15, 2022, with copies of medical records regarding knee problem
 - Tab 9:** Letter from M. Heck to E. McCartney dated November 16, 2022, requesting confirmation of date of arrest of Dr. Coddington
 - Tab 10:** Letter from E. McCartney to M. Heck dated November 17, 2022, with copy of Summons issued to Dr. Coddington dated June 21, 2022
 - Tab 11:** Email from Calgary Police Service to CPSA dated November 18, 2022, confirming date of service of Summons on Dr. Coddington on July 14, 2022
 - Tab 12:** Letter from M. Heck to Dr. Coddington dated December 1, 2022, re expansion of scope of investigation re failure to report criminal charge promptly
 - Tab 13:** Letter from AHS to CPSA dated December 12, 2022, with My Safetynet Incident Report dated March 30, 2022, and response by Dr. Coddington
 - Tab 14:** Letter from E. McCartney to M. Heck dated December 15, 2022, advising criminal charge withdrawn
 - Tab 15:** Certificate of Completion of PBI Course on Navigating Professional

Boundaries in Medicine date November 19, 2022

- Tab 16:** Letter from S. Harbourne, Registered Nurse, dated February 5, 2023 regarding therapy provided to Dr. Coddington
- Tab 17:** Letter from S. Harbourne, Registered Nurse, dated January 23, 2024
- Tab 18:** Letter of apology from Dr. Coddington to Nurse [REDACTED] dated January 26, 2024
- Tab 19:** CPSA Profile for Dr. Coddington with conditions on practice permit
- Tab 20:** Canadian Medical Association Code of Ethics and Professionalism

Exhibit 2: Admission and Joint Submission Agreement dated January 29, 2024

Exhibit 3: Impact Statement – [REDACTED]

7. Counsel for the Complaints Director also filed the following materials:
- Brief of Law Regarding Joint Submissions dated January 26, 2024.

V. SUBMISSIONS REGARDING THE ALLEGATION

Submissions on Behalf of the Complaints Director

8. The Allegation is that Dr. Coddington did physically move the Complainant out of the way. This was part of an animated discussion that was going on between Dr. Coddington and the Complainant related to patient consent. Dr. Coddington's conduct is a violation of the obligation in the *CMA Code of Ethics and Professionalism* to treat colleagues with respect. Section 70 of the HPA provides that a Hearing Tribunal can accept an admission of unprofessional conduct, and there is more than sufficient information in Exhibit 1 to base a finding of unprofessional conduct.

Submissions on Behalf of Dr. Coddington

9. Dr. Coddington has admitted the charge, and he recognizes that the conduct constitutes unprofessional conduct. This is not a contentious issue, and Dr. Coddington has accepted responsibility for his actions.

Questions from the Hearing Tribunal

Does section 1(1)(pp)(xii) apply in these circumstances?

10. Counsel for the Complaints Director submitted that the Hearing Tribunal could rely on that section.

Were there any other breaches of the Standards of Practice that apply in these circumstances?

11. Counsel for the Complaints Director submitted that laying hands on and pushing your professional colleague is a sign of disrespect. Discussions with counsel for Dr. Coddington have focused primarily on section 31 of the CMA *Code of Ethics and Professionalism*. The conduct from the perspective of the Complainant is about feeling disrespected, both her physical autonomy and herself as a professional advocating for the patient.
12. Counsel for Dr. Coddington submitted that Dr. Coddington has accepted full responsibility, has recognized what has happened constitutes unprofessional conduct, and has no other submissions on the basis that the Hearing Tribunal arrives at that determination.

VI. FINDINGS ON THE ALLEGATION

13. The Hearing Tribunal deliberated on whether, on a balance of probabilities, the Allegation has been proven. The Hearing Tribunal carefully reviewed and considered the documents contained in Exhibit 1 and the submissions of both parties.
14. As set out above, Dr. Coddington has admitted to this Allegation and that his conduct represents unprofessional conduct pursuant to section 70(1) of the HPA.
15. The Hearing Tribunal finds that the Allegation is factually proven and that the evidence does support Dr. Coddington's admission on a balance of probabilities. The Hearing Tribunal also finds that the conduct constitutes unprofessional conduct under section 1(1)(pp)(ii) and section 1(1)(pp)(xii) of the HPA as follows:

1(1) *In this Act,*

(pp) "unprofessional conduct" means one or more of the following, whether or not it is disgraceful or dishonourable:

...

(ii) contravention of this Act, a code of ethics or standards of practice; and

...

(xii) conduct that harms the integrity of the regulated profession;

16. The Allegation states that the Investigated Member demonstrated conduct that harms the integrity of the profession of medicine in that he did put his

hands on a nursing colleague during a dispute over the consent process for a patient who required appendectomy surgery.

17. Section 31 of the *CMA Code of Ethics and Professionalism* provides as follows: "Treat your colleagues with dignity and as persons worthy of respect. Colleagues include all learners, health care partners, and members of the health care team." The Complainant was a member of the health care team. When Dr. Coddington put his hands on the Complainant during a dispute over the consent process for a patient, he did not treat her as a person worthy of respect. Further, his behaviour would tend to harm the integrity of the medical profession because of his failure to treat the Complainant with dignity and respect.
18. The Hearing Tribunal then considered whether the conduct admitted to was unprofessional. The HPA, in section 1(1)(pp)(ii), includes contravention of this Act, a code of ethics or standards of practice as being unprofessional. This deficiency has been proven.
19. Section 1(1)(pp)(xii) of the HPA includes conduct that harms the integrity of the regulated profession. The Investigated Member admitted to the Allegation and his conduct harms the integrity of the medical profession. The Hearing Tribunal therefore finds that the conduct admitted to constitutes unprofessional conduct.
20. The parties were informed that the Hearing Tribunal accepted the Allegation as proven and agreed that the conduct constituted unprofessional conduct. The parties were invited to make submissions on sanctions. The parties presented a Joint Submission regarding sanction.

VII. SANCTION

21. The Hearing Tribunal admitted into evidence a written impact statement from the Complainant as Exhibit 3. Counsel for the Complaints Director invited the Complainant to read the impact statement to the Hearing Tribunal. That concluded the evidence phase of sanctions, and the Chair then invited submissions on sanction.

Submissions on Behalf of the Complaints Director

22. The Joint Submission Agreement on Sanction is Exhibit 2 ("Joint Submission"). When presented with a Joint Submission, a decision-maker should only reject it if it is of the opinion that it is manifestly unjust and it would not serve justice. There are twofold goals to achieve through the sanction process: first is deterrence both to the individual facing sanction and to the profession, and second is rehabilitation.
23. The decision in *Martin (Re)*, 2021 CanLII 73132 (AB CPSDC) is an example of a physician being found guilty of unprofessional conduct for showing disrespect to nursing colleagues. There was a 30-day suspension imposed,

but that was held in abeyance if Dr. Martin took a course on professional ethics. There was also an order for paying a portion of the costs.

24. There are mitigating factors in this situation. Dr. Coddington has acknowledged the unprofessional conduct and provided a letter of apology. He has undertaken a course on professional boundaries and counselling with a therapist arising out of this incident. There are two reports from the therapist regarding the course of treatment and confirming the conclusion of the therapy. The therapist is of the opinion that the goals of therapy were attained.
25. The sanction that is proposed aligns with the decision in *Martin* and the general principles of deterrence and rehabilitation. Dr. Coddington would receive a reprimand, and his practice permit would be suspended for 30 days. That suspension is deemed fulfilled through the recognition of his admission, the completion of the PBI course on Navigating Professional Boundaries in Medicine ("PBI course"), and the therapy undertaken with the therapist. The Joint Submission also proposes that Dr. Coddington be responsible for two-thirds of the costs.

Submissions on Behalf of Dr. Coddington

26. The Hearing Tribunal should not depart from a Joint Submission unless it would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. The work that Dr. Coddington has done since this complaint arose is significant. He completed the PBI course and did significant work with Mr. Steven Harbourne, who is a registered nurse and therapist. Mr. Harbourne has concluded that the therapeutic goals that were set for Dr. Coddington arising from this incident have all been met, and he has gained insight into the conduct and how to avoid it in the future.
27. The behaviour in *Martin* was more serious than this one and involved biting a colleague. The Hearing Tribunal in *Martin* imposed a 30-day suspension to be held in abeyance on the condition that the physician take a boundaries course or an ethics course. Dr. Coddington has already done that. The Joint Submission should be accepted because not only is it not manifestly unjust; it is absolutely reasonable in the circumstances.

Questions from the Hearing Tribunal

How were the factors in Jinnah v Alberta Dental Association and College, 2022 ABCA 336 taken into account?

28. Counsel for the Complaints Director submitted that the *Jinnah* case dealt with a relatively minor issue of debt collection. It did not directly involve interactions with patients. Dr. Coddington was dealing with a patient and the patient was scared. The patient wanted to have an opportunity to talk to her husband and was feeling rushed. The Complainant was advocating for the patient. The response that she received was one of physical dismissal, the

grabbing by the arms and moving her out of the patient area, and the figurative professional dismissal in not recognizing the point that the Complainant was raising in the consent process.

29. Informed consent for a procedure is a matter that goes to the heart of medical care. If a patient is scared and wants some time to think about it and perhaps talk to a family member, it is not in the public interest or in any way appropriate for a medical professional to rush the decision. There is no evidence that this was a life-and-death scenario that a decision had to be made right at that moment. Informed consent, autonomy of the patient, and respect for the consent process are at the core of the profession. *Jinnah* was about collecting unpaid dental balances and not something so central as informed consent.
30. Counsel for Dr. Coddington submitted that two-thirds of the costs are appropriate in the context of the remedial work that Dr. Coddington has done, and his admission that has saved the Hearing Tribunal and the parties unnecessary expense.

Further to submissions received on Jaswal, how did the impact on the Complainant weigh in the consideration of sanctions?

31. Counsel for the Complaints Director submitted that an apology has been provided, and the Complainant appreciates that the matter has reached the point where she is being heard. This is a public hearing that will result in a public decision. The Complainant has been given the opportunity to provide an impact statement and have a voice in the hearing. The decision can reflect the importance of treating colleagues with respect, especially when they are dealing with something central like informed consent and advocating for a patient. The totality of the process gives the Complainant recognition that her complaint was well-founded and was reasonable.
32. Counsel for Dr. Coddington submitted that the Complainant had given a thoughtful statement on how this has impacted her. The Joint Submission proposes a serious sanction, and it will be on Dr. Coddington's record. The impact on the Complainant was significant, and the proposed sanction is proportional to the impact as well as the other circumstances that are articulated in *Jaswal v. Newfoundland Medical Board*, (1996), 42 Admin L.R. (2d) 233.

VIII. DECISION WITH REASONS

33. The Hearing Tribunal adjourned to carefully consider the submissions of the parties and the factors that are typically considered when determining sanction in the professional regulatory area. Both deterrence and rehabilitation are relevant factors to consider in determining whether a proposed sanction is appropriate and in the public interest.

34. The Hearing Tribunal was also mindful that significant deference is to be given to the Joint Submissions. It is the view of the Hearing Tribunal that the sanctions proposed will not bring the administration of justice in the professional regulatory context into disrepute.
35. The Hearing Tribunal considered the factors set out in *Jaswal* when determining an appropriate penalty. The Hearing Tribunal determined that the Allegation was serious in nature.
36. Consent to treatment is central to all health care. It is an aggravating factor that this incident occurred while the Complainant was advocating for a patient during the consent process.
37. The actions of Dr. Coddington have had a significant impact on the Complainant, and the enduring effects his failure to treat a colleague with dignity and respect are best illustrated by selected quotes from the impact statement:

That night in the emergency department you made me feel like I had done something terribly wrong for trying to advocate for a patient, a patient that was scared and that simply had more questions that she wanted answered.

...

Upon returning to work, I was fearful of crossing paths with you in the hospital. Your actions on the evening of March 30th were so irrational I could only imagine how you might act towards me now that I had formally brought a complaint against you.

...

Your actions have impacted my career and my confidence and trust in my colleagues.

38. The Hearing Tribunal concluded that there is a definite need to promote specific and general deterrence in this case. The profession at large needs to be reminded that they have a duty to practice according to the CMA Code of Ethics and Professionalism and treat colleagues with dignity and respect.
39. There were a considerable number of mitigating factors in this case. Dr. Coddington had agreed with the Joint Submission, thereby avoiding the need to call witnesses. He had fully admitted that the Allegation was true. He has completed the PBI course and undertaken therapy.
40. The Hearing Tribunal considered the decision in *Martin* provided by counsel for the Complaints Director and the sanctions in that decision. The Hearing Tribunal is of the view that the sanctions proposed fall within the range of acceptable sanctions having regard to the factors set out in *Jaswal*, the relevant provision in the CMA Codes of Ethics and Professionalism, the case law provided, and Dr. Coddington's admitted conduct.

41. The Hearing Tribunal considered the issue of costs and the Court of Appeal decision in *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336. The conduct at issue in this hearing is serious, and the proposal on costs was agreed to by both parties in the Joint Submission.
42. The reprimand, suspension and costs proposed are appropriate in these circumstances as a consequence for Dr. Coddington's unprofessional conduct. The reprimand and suspension will also serve to remind the profession that such conduct will not be tolerated.
43. For the above reasons, and in light of the recognized purposes of a sanction, the Hearing Tribunal accepts the sanctions proposed in the Joint Submission.

IX. ORDERS

44. The Hearing Tribunal hereby orders pursuant to section 82 of the HPA:
 - a. Dr. Coddington shall receive a reprimand;
 - b. Dr. Coddington's practice permit shall be suspended for a period of 30 days with that period of suspension being held in abeyance in recognition of admission and rehabilitation work already completed by Dr. Coddington;
 - c. Dr. Coddington shall be responsible for two-thirds of the costs of the investigation and the hearing before the Hearing Tribunal.

Signed on behalf of the Hearing Tribunal by its Chair:



Mr. Douglas Dawson

Dated this 25th day of March, 2024.