

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. JOHANNES BOTHA

**DECISION OF THE HEARING TRIBUNAL OF
THE COLLEGE OF PHYSICIANS
& SURGEONS OF ALBERTA
REGARDING SANCTION
February 23, 2026**

CORRIGENDUM: A corrigendum was issued by the Hearing Tribunal on April 15, 2026 and the corrections have been made to this version. The corrigendum is appended to this decision.

I. INTRODUCTION

1. The Hearing Tribunal of the College of Physicians and Surgeons of Alberta ("CPSA") held a hearing into the conduct of Dr. Johannes Botha on August 19, 2025. It issued its decision relating to the allegations against Dr. Botha on October 2, 2025 (the "Merits Decision"). The Hearing Tribunal refers to and incorporates the Merits Decision and uses the same defined terms in this decision on sanction and those set out in the Merits Decision.
2. The Hearing Tribunal subsequently received written submissions from the Complaints Director relating to sanction. No submissions were received from Dr. Botha despite the Hearing Tribunal's invitation for him to provide submissions on sanction.

II. BACKGROUND

3. In the Merits Decision, the Hearing Tribunal found Dr. Botha guilty of the following allegations:
 1. During the period of 2007 to 2022, you did fail to create an adequate record for your patient, particulars of which include one or more of the following:
 - a. History of presenting concern often not recorded;
 - b. Absence of details regarding duration and severity of symptoms, relieving or exacerbating factors or associated symptoms;
 - c. Multiple encounters for behavioral disturbances, depression, anxiety or ADHD which lacked appropriate rating scale tools;
 - d. Lack of notes regarding early childhood developmental milestones;
 - e. Lack of details on asthma severity or inhaler use;
 - f. Systemic examination findings from physical examinations generally not recorded;
 - g. No documentation of any complete physical examination having been undertaken;
 - h. Neurological examinations were missing when patient had been evaluated for suspected tic disorder;
 - i. Surgical and allergy histories were not recorded in chart; and
 - j. Inadequate information to justify diagnosis and treatment on multiple occasions.

2. You did fail or refuse to comply with a request or cooperate with a CPSA investigator, particulars of which include one or more of the following:
 - a. Initial letter to you requesting your response dated May 6, 2024;
 - b. Further letter to you requesting your response dated June 6, 2024;
 - c. Further letter to you regarding requested response dated July 12, 2024;
 - d. Further letter to you regarding requested response dated September 4, 2024.
 - e. Further letter to you regarding requested response dated September 23, 2024
 - f. Further letter to you with request to respond to expanded scope of investigation dated October 2, 2024;
 - g. Further letter to you regarding request for response to expanded scope of investigation dated October 21, 2024;
 - h. Further letter to you regarding initial request for response and response to expanded scope of investigation dated November 7, 2024; and
 - i. Further letter to you regarding further expansion of scope to include your failure to respond to a request by an investigator dated November 26, 2024; and
 - j. Further letter to you dated December 13, 2024 regarding the findings of the investigation and a request for your response by January 10, 2025.

4. The Hearing Tribunal invited written submissions from the Complaints Director and Dr. Botha relating to sanction. Written submissions were received from the Complaints Director on December 1, 2025. Dr. Botha did not respond to the Hearing Tribunal's invitation to provide written submissions. The Hearing Tribunal posed questions to the Complaints Director in relation to the proposed sanctions, and the Complaints Director provided additional submissions by way of letter dated January 30, 2026.

III. SUBMISSIONS ON SANCTION

5. In his written submissions on sanctions, the Complaints Director sought the following orders under section 82 of the HPA:
 - a. Dr. Botha's practice permit shall be suspended for a 60-day period starting on a date determined by the Hearings Director;

- b. Dr. Botha shall, at his own expense, complete a course in record-keeping that is acceptable to the Complaints Director and provide proof of completion of the course to the Complaints Director;
 - c. Dr. Botha shall pay a fine of \$500; and
 - d. Dr. Botha shall pay costs of \$6,500 the investigation and hearing.
6. The Complaints Director noted that orders made by the Hearing Tribunal should serve to protect the public, to regulate the profession and to preserve the public's confidence in the profession. The Complaints Director utilized the factors in *Jaswal v Medical Board (Newfoundland)*, [1996] 42 Admin L.R. (2d) 233 ("*Jaswal*") to frame his submissions on sanction. Those factors and the Complaints Director's submissions in relation to them are summarized in Part IV, below.
7. In response to the Complaints Director's submissions, the Hearing Tribunal posed questions to the Complaints Director relating to the proposed timing for compliance with the proposed sanctions, and in relation to the availability of an inspection, audit or other review that the Hearing Tribunal could direct relating to Dr. Botha's charting. The Hearing Tribunal believed that some degree of supervision of Dr. Botha's charting following completion of the proposed record-keeping course was appropriate for the protection of the public, and to address Dr. Botha's non-compliance with applicable Standards.
8. In response, the Complaints Director provided the following additional submissions:

The Hearing Tribunal has broad authority under section 82(1)(l) of the *Health Professions Act* to order an independent review, inspection, audit, or similar process of Dr. Botha's clinical records to ensure compliance with the Patient Record Content Standard of Practice following his completion of a record-keeping course. The CPSA Complaints Director is supportive of the Hearing Tribunal imposing such a sanction.

The CPSA's Department of Continuing Competence is equipped to manage this process through its Individual Practice Review ("IPR") Program. Typically, a physician registers with the Continuing Competence Department to initiate the IPR process and complete a practice assessment. The Continuing Competence Department then creates an action plan with the physician for addressing areas requiring improvement and provides guidance and support to the physician in implementing any recommended practice changes. The cost associated with the IPR program is \$3,500 for the first twelve months.

The Complaints Director therefore supports an order that Dr. Botha be required to enroll and participate in the IPR Program, at his own expense, within three months of his completion of the record-keeping course.

IV. REASONS

9. Given the framework used by the Complaints Director in his submissions, the Hearing Tribunal will frame its consideration of sanction based on the factors in *Jaswal*. To avoid duplication, the Hearing Tribunal summarizes the arguments of the Complaints Director in relation to these factors below and provides its reasons for each including whether the factor is aggravating, mitigating or neutral.
10. **Nature & Gravity of the Unprofessional Conduct.** The Complaints Director submitted that the nature and gravity of the proven misconduct was serious. In relation to the charting allegation, he noted that the findings suggest a systemic failure to create an adequate record for a vulnerable young person with significant medical challenges. In relation to allegation 2, the Complaints Director noted that failure to participate in an investigation is serious in that it calls into question the ability of the College to regulate its members.
11. The Hearing Tribunal agrees with these submissions. The nature of the failures regarding charting were systemic and longstanding. The deviations from the minimum requirements in the Standards were significant and represented a failure to record important health information about a vulnerable young person. Charting is vital for continuity of care, and the absence of adequate chart notes put the patient at risk. Second, the failure by Dr. Botha to participate in the investigation process calls into question the ability of the College to regulate its members. Each member of the profession has a positive duty to cooperate and participate in regulatory processes under the HPA, and Dr. Botha's refusal to do so requires a serious sanction. This factor is aggravating.
12. **Age and Experience of the Physician.** As rightly noted by the Complaints Director, Dr. Botha had been a member of the College for approximately 24 years at the time of the proven unprofessional conduct. He is not a new member, and he ought to have known better given his significant experience as a family physician. This is an aggravating factor.
13. **Previous Character of the Physician.** There is no evidence before the Hearing Tribunal of any previous finding of unprofessional conduct relating to Dr. Botha; this is a mitigating factor.
14. **Age and Mental Condition of the Victim.** This consideration applies regarding the facts in allegation 1. It is clear that the patient was a minor at the time of the unprofessional conduct, and that his significant diagnoses

required particular care and careful charting. The Hearing Tribunal agrees with the Complaints Director that this is an aggravating factor.

15. **Number of Times the Conduct Occurred.** In relation to allegation 1, the Hearing Tribunal notes that the charting failures took place over approximately 15 years; the issues were not sporadic nor unique but were instead a systemic failure to properly record important patient information over the course of many years.
16. Further, in relation to allegation 2, the Hearing Tribunal agrees with the Complaints Director that Dr. Botha had several opportunities to participate in the investigation process. This was not a single refusal to respond; Dr. Botha had ample opportunity to come into compliance but refused to do so. This is an aggravating factor.
17. **Acknowledgement of the Physician.** There was no acknowledgement from Dr. Botha because he did not participate in the hearing process despite repeated opportunities to do so. The Hearing Tribunal treats this factor as a neutral one, and the Complaints Director did not make specific submissions in relation to it.
18. **Existence of Other Consequences.** There is no evidence before the Hearing Tribunal that Dr. Botha has suffered any other consequences arising from the unprofessional conduct. This is therefore a neutral factor.
19. **Impact on Victim.** Again, this factor applies to the facts in allegation 1 only. As noted, the patient was a minor with significant health challenges, and the failure to adequately chart means that the patient is left without an appropriate record of his appointments with Dr. Botha, and without information which could have been important for his new family physician to know about his past. There is no information about a specific impact on the patient, and the Hearing Tribunal treats this as mildly aggravating for those reasons.
20. **Mitigating or Aggravating Circumstances.** No specific submissions were made by the Complaints Director in relation to this factor, and the Hearing Tribunal is not aware of any aggravating or mitigating circumstances not adequately captured under the other *Jaswal* factors.
21. **General and Specific Deterrence.** The Hearing Tribunal agrees with the Complaints Director that there is a particular need for both general and specific deterrence here. The sanctions imposed must be sufficiently serious to ensure that the profession is aware that non-compliance with the College's regulatory functions is unacceptable and will have serious consequences for the member. Further, Dr. Botha must be encouraged to come into compliance with the College's regulatory functions and must be made to understand that any future non-compliance will result in more serious sanctions.

22. The Hearing Tribunal notes that the medical profession has been given the privilege of self-regulation under the auspices of the HPA; it must be seen by the public as having the ability to regulate its members and Dr. Botha's conduct puts at risk the confidence of the public in the profession's ability to do so. This is a strong aggravating factor.
23. **Maintenance of Public Confidence in the Profession.** This factor is adequately considered under the need for general and specific deterrence given the facts in this case.
24. **Degree to which the Conduct Departs from Acceptable Conduct.** Dr. Botha's conduct is clearly unacceptable for the reasons set out above. The proven allegations were not minor or technical breaches of Dr. Botha's professional obligations. The charting was seriously deficient and reflected a significant departure from professional expectations. Further, the non-participation by Dr. Botha is extraordinary and reflects a repeated decision to abdicate his obligations as a member of the profession. This is an aggravating factor.
25. **Sanctions in Similar Cases.** The Complaints Director provided a number of previous decisions to assist the Hearing Tribunal in its deliberations. The combination of the specific allegations involved in this case is unusual, and the Hearing Tribunal has considered the cases noted to the extent that they are useful. It is noteworthy that non-compliance with regulatory processes have, in some cases, resulted in the revocation of the member's practice permit (*eg Ontario (College of Physiotherapists) v Bellamy*), but the Complaints Director is not seeking revocation on the facts here. Other cases relating to non-compliance have resulted in suspensions, reprimands, fines, costs, and the requirement for continuing professional development (see *eg College of Physicians and Surgeons of Ontario v Luchkiw* and *Barr v College of Physicians and Surgeons of Alberta*).
26. The Hearing Tribunal notes that a hearing tribunal has required a member to engage in an individual practice review in order to review and implement required changes to the member's practice, in addition to the payment of fines and costs (*e.g., Tse (Re)*). The Hearing Tribunal believes that a similar sanction is required here arising from the facts in allegation 1 to ensure that Dr. Botha has not only an opportunity for additional education on the issue of charting, but a mechanism to ensure that those learnings are incorporated into his practice to promote the protection of the public.
27. The Hearing Tribunal has also concluded that a period of suspension is required in order to ensure that Dr. Botha understands the seriousness of his misconduct, and the need to comply with the College's regulatory processes. While suspension is undoubtedly serious, the nature of the misconduct requires a significant response to deter similar conduct in the future. The mandatory continuing professional development course is important not only

for the rehabilitation of Dr. Botha, but also for the protection of the other patients that Dr. Botha serves.

28. Finally, the Hearing Tribunal agrees that a modest fine is appropriate to communicate to Dr. Botha that there is a financial consequence for his non-compliance with the regulatory process and in relation to the failures to adequately chart for the patient visits over many years.

VII. ORDERS

29. The Hearing Tribunal has deliberated on the submissions of the Complaints Director. For the reasons set out above, the Hearing Tribunal makes the following orders pursuant to section 82(1) of the HPA.
 - a. Dr. Botha's practice permit shall be suspended for a 60-day period starting on a date determined by the Hearings Director;
 - b. Dr. Botha shall, at his own expense, and within 12 months of the date of this decision, complete a course in record-keeping that is acceptable to the Complaints Director and provide proof of completion of the course to the Complaints Director;
 - c. Dr. Botha shall, at his own expense, enroll in and participate in the College's Individual Practice Review Program, within three months of the completion of the course in record-keeping set out in part (b), above, on terms and conditions acceptable to the Complaints Director;
 - d. Dr. Botha shall pay a fine of \$500 within six months of the date of this decision; and
 - e. The Hearing Tribunal retains the jurisdiction to address any matters arising from these orders.

VIII. COSTS

30. The Complaints Director provided submissions in relation to costs, relying on the recent guidance from the Court of Appeal in *Charkhandeh v College of Dental Surgeons of Alberta*, 2025 ABCA 258 ("*Charkandeh*"). The Complaints Director noted that the total costs of the investigation and hearing exceed \$8,500.00, excluding the costs of the Hearing Tribunal members and its independent legal counsel. The Complaints Director sought a total costs award of \$6,500.00.
31. The Hearing Tribunal first concludes that a costs award is appropriate in these circumstances. Dr. Botha's refusal of failure to participate in the process increased the costs required to prosecute this matter, including requiring the evidence of two College employees to confirm the attempts to engage with Dr. Botha in this matter. The schedule of costs provided to the Hearing Tribunal also confirms that the amount of costs sought are appropriate, and in fact

appear to be quite reasonable given the nature of the issues adjudicated and the time spent by legal counsel for the Complaints Director.

32. The Hearing Tribunal has no information before it to suggest that the costs awards sought would represent a "crushing blow" to Dr. Botha; indeed, the costs awards reflected in the case law provided by the Hearing Tribunal were significantly higher (although they were not subject to the *Charkandeh* framework).
33. For those reasons, the Hearing Tribunal concludes that a cost award is appropriate, and that the amount sought by the Complaints Director is reasonable and proportionate to the nature of the hearing, Dr. Botha's refusal to participate in the investigation process and the actual costs incurred by the College in pursuing the matter. Therefore, the Hearing Tribunal orders pursuant to section 82(1)(j) of the HPA that Dr. Botha pay to the College costs in the sum of \$6,500, payable in equal installments over a period of 12 months, with the first payment due on March 31, 2026.

Signed on behalf of the Hearing Tribunal by the Chair:



Mr. Andrew Otway

Dated this 23rd day of February, 2026.

CORRIGENDUM: The term "Independent Practice Review" has been deleted and replaced with the correct term, "Individual Practice Review" where it appeared in the decision of the Hearing Tribunal.