

COLLEGE OF ALBERTA DENTAL ASSISTANTS  
IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, RSA 2000, c H-7

AND IN THE MATTER OF  
A HEARING TRIBUNAL HEARING  
REGARDING THE CONDUCT OF  
ELENA MONAKHOVA (REGISTRATION NUMBER 9613),  
A REGULATED MEMBER OF  
THE COLLEGE OF ALBERTA DENTAL ASSISTANTS

**DECISION OF A HEARING TRIBUNAL OF THE  
COLLEGE OF ALBERTA DENTAL ASSISTANTS**

**Introduction**

A Hearing Tribunal of the College of Alberta Dental Assistants (the College), under the authority of the *Health Professions Act* (the “Act”) met virtually on October 28, 2024.

In attendance on behalf of the Hearing Tribunal were:

Amanda (Morgan) Foster, RDA	Chairperson
Sarita Dighe-Bramwell	Public Member
Harmeet Gill, RDA	Member
Barbara Rocchio	Public Member

In attendance at the hearing were Mr. Taylor Maxston, legal counsel for the Complaints Director; Ms. Susan vander Heide, Complaints Director for the College; and Ms. Kimberly Precht, independent legal counsel to the Hearing Tribunal.

Ms. Elena Monakhova, the investigated member, was not in attendance and was not represented at the hearing.

**Allegations**

The allegations were set out in a Notice of Hearing dated July 17, 2024, alleging Ms. Monakhova engaged in unprofessional conduct with respect to the following matters:

1. That for the 2022 and 2023 College of Alberta Dental Assistants registration terms, you failed to maintain complete competence records including failing to upload proof of successful completion of learning objectives and verification of current practice hours, all of which constitutes unprofessional conduct for the purposes of section 1(1)(pp)(ii) and/or (xii) of the *Health Professions Act*, including contravening the College of Alberta Dental Assistants’ Standards of Practice, section 11.2(a), 12.2(b) and/or 18.3.
2. On or about January 2, 2024, and up to and including May 28, 2024, and any other dates that are pertinent, you failed to respond or failed to respond meaningfully to

multiple requests for response from the College of Alberta Dental Assistants regarding the matters described in charge 1, all of which constitutes unprofessional conduct for the purposes of section 1(1)(pp) (ii) and/or (xii) of the *Health Professions Act*, including contravening the College of Alberta Dental Assistants' Standards of Practice section 12.2 (c) and/or (d), and/or Code of Ethics article 6.2(c).

IT IS ALLEGED that the conduct described above constitutes unprofessional conduct as defined in s. 1(1)(p) of the *Health Professions Act*, and/or constitutes a contravention of one or more of the following: the *Health Professions Act*, the College's Standards of Practice and Code of Ethics.

### **Preliminary Matters**

There were no objections to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing.

At the outset of the hearing, the Complaints Director made a preliminary application to proceed in Ms. Monakhova's absence. Section 72(1) of the Act states the investigated person must appear at a hearing before the Hearing Tribunal. However, s. 79(6) of the Act provides as follows:

**79(6)** Despite section 72(1), if the investigated person does not appear at a hearing and there is proof that the investigated person has been given a notice to attend the hearing tribunal may

- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act or decide on the matter being heard in the absence of the investigated person.

Also relevant, s. 120(3) of the Act provides that if a document or notice is required to be given under Part 4 of the Act by a hearings director to an investigated person, "the document or notice is sufficiently given if it is given by personal service to the person or sent to the person by certified or registered mail at that person's address as shown on the register or record of the registrar."

### **Evidence**

Mr. Maxston called Carol Collison, Hearings Director, as a witness in support of the Complaints Director's application to proceed in Ms. Monakhova's absence.

The Hearings Director testified she has been the College's Hearings Director since 2006 and carried out her duties as Hearings Director with respect to Ms. Monakhova. The Hearings Director detailed her communications with Ms. Monakhova about this hearing.

The Hearings Director testified that on July 17, 2024, she sent Ms. Monakhova a letter by registered mail (Exhibit 1) and by email (Exhibit 3) enclosing the Notice of Hearing, Notice to Attend, and Notice to Produce, Part 4 of the Act, and the Hearing Steps and Procedures document being followed in this hearing.

The Hearings Director used the mailing address and email address for Ms. Monakhova in the College's database. On the morning of the hearing, the Hearings Director confirmed that Ms. Monakhova's contact information in the College's database was still as shown on the letter the Hearings Director sent her on July 17, 2024.

The Hearings Director identified the Canada Post tracking receipt indicating the letter enclosing the Notice of Hearing was sent to Ms. Monakhova on July 17, 2024, by registered mail (Exhibit 2), and the Canada Post delivery progress report indicating the letter was available for pick up from July 18, 2024, but was not picked up and was eventually returned unclaimed (Exhibit 4).

As for the email the Hearings Director sent on July 17, 2024, the Hearings Director testified that she received an Outlook confirmation that the message was delivered, with no delivery confirmation from the destination server (Exhibit 3), but received no response from Ms. Monakhova.

The Hearings Director testified that she also emailed the hearing link to Ms. Monakhova the week prior to the hearing date and received confirmation the email was sent.

In response to a question from the Hearing Tribunal, the Hearings Director advised that she did not attempt to contact Ms. Monakhova's last known employer and explained that it was not typical to do so. Instead, the College uses the personal contact information provided to the College by the member.

The Hearings Director also testified that she spoke with Ms. Monakhova on the phone on June 17, 2024, at which time the Hearings Director explained to Ms. Monakhova who she was and that she was organizing a hearing to address the allegations against Ms. Monakhova. The Hearings Director testified that Ms. Monakhova indicated she was available in late October 2024 and requested further information on the allegations and next steps. The Hearings Director referred Ms. Monakhova to speak with the Complaints Director for more information.

### *Submissions*

Mr. Maxston submitted that the Hearings Director's evidence supported that the requirements of s. 79(6) of the Act were met and the hearing should proceed in Ms. Monakhova's absence. The Notice of Hearing was sent to Ms. Monakhova's last regular mail address by registered mail and was also sent to the email address Ms. Monakhova provided to the Hearings Director. The email was confirmed as delivered, and there was no reason to believe the email was not delivered.

Mr. Maxston emphasized that s.120(3) of the Act requires notices to be *sent* to the regulated member by registered mail at their address as shown on the register or record of the registrar, and it is not necessary to prove the notice was *received*. Mr. Maxston also submitted that s. 120(3) of the Act should not be read so restrictively to exclude email and that, in this case, email service has been proven by the delivery confirmation email.

Mr. Maxston also emphasised that regulated members are required to maintain up-to-date contact information with the College. In this case, Ms. Monakhova did not update her information between the date the Notice of Hearing was sent and the hearing date.

Finally, Mr. Maxston noted the Hearings Director's evidence that she spoke with Ms. Monakhova on the phone, during which Ms. Monakhova confirmed the timing of the hearing worked for her.

### *Decision*

The Hearing Tribunal considered the evidence and submissions carefully. It was clear that the Hearings Director sent the Notice of Hearing to Ms. Monakhova by registered mail at the address in the College's database, satisfying the requirements of s. 120(3) of the Act. Beyond this, it was evident that the Hearings Director went above and beyond expectations in bringing this hearing to Ms. Monakhova's attention, including by speaking with Ms. Monakhova by phone. The Hearing Tribunal was satisfied that Ms. Monakhova received adequate notice of the hearing, and was not aware of any information that would explain her failure to attend. As such, the Hearing Tribunal granted the Complaints Director's application to proceed in the absence of the investigated person, in accordance with s. 79(6) of the Act.

### **Evidence**

Mr. Maxston entered the following exhibits, which included evidence relevant to the preliminary application to proceed in the member's absence (Exhibits 1 to 4) as well as the merits of the charges (Exhibits 5 to 9):

- Exhibit 1 July 17, 2024, notice of hearing letter from the Hearings Director to Ms. Monakhova and enclosures: July 17, 2024, Notice of Hearing, Notice to Attend and Notice to Produce, Part 4 of the *Health Professions Act*, and Hearing Steps and Procedures
- Exhibit 2 Registered mail chit for July 17, 2024, notice of hearing letter and enclosures sent to Ms. Monakhova
- Exhibit 3 July 17, 2024, notice of hearing email from the Hearings Director to Ms. Monakhova, and Outlook confirmation of email delivery
- Exhibit 4 Registered mail delivery progress report and envelope showing registered mail sent on July 17, 2024, was returned to sender on August 9, 2024
- Exhibit 5 July 17, 2024, Notice of Hearing
- Exhibit 6 Investigation Report, Elena Monakhova, Registration Number 9613, signed May 28, 2024, by the Complaints Director
- Exhibit 7 Online Competence Records for Ms. Monakhova
- Exhibit 8 Registered mail chit for April 4, 2024, Final Notice Letter sent by Registrar
- Exhibit 9 Registered mail delivery progress report showing registered mail sent on April 4, 2024, was returned to sender on June 4, 2024

During the hearing, witnesses identified and spoke to each of the exhibits listed above.

With respect to the merits of the charges set out in the Notice of Hearing, the Complaints Director called the following persons as witnesses:

Susan vander Heide, Complaints Director

Luanne Menard, Regulatory Compliance Advisor

Jennifer Tewes, Registrar and CEO

### *Evidence of the Complaints Director*

Ms. vander Heide testified that she has been the College's Complaints Director since 2009. She confirmed that she received and investigated this complaint against Ms. Monakhova, and ultimately referred it to a hearing. Except where indicated otherwise, the documents the Complaints Director referenced in her testimony were included as appendices to her investigation report (Exhibit 6).

The Complaints Director also noted that the College's witnesses would also be referencing additional documents that were not part of the exhibits disclosed to Ms. Monakhova, but submitted this would not prejudice Ms. Monakhova. Specifically, the Complaints Director identified a five-page PDF showing Ms. Monakhova's Continuing Competence Program ("CCP") Learning Plans from the 2022 and 2023 registration terms. Briefly, the Complaints Director explained that each member can access the College's CCP portal using a unique log in and can propose learning plans for the upcoming registration year and record their progress. Members are required to submit and complete two learning goals each year and must upload proof that they have maintained at least 300 practice hours over three years. The Complaints Director testified that Ms. Monakhova last accessed the portal on February 16, 2024, and that her CCP Learning Plans showed she had not uploaded any proof of her practice hours. The Complaints Director testified that she took screenshots of Ms. Monakhova's CCP Learning Plans in mid-October 2024, but was not certain of the exact date (Exhibit 7).

### *Evidence of the Regulatory Compliance Advisor*

Ms. Menard testified that she is one of the Regulatory Compliance Advisors with the College (referred to as "Compliance Advisor" in this decision) and her role includes responding to practice advice calls, conducting continuing competence audits, helping facilitate CCP videos, and other such activities. She explained that the CCP is a program in place for Dental Assistants to continually improve competence. The CCP requires members to assess their practice annually, complete a self-assessment tool, and to complete a learning plan with two learning objectives goals for each registration year. The members must upload proof of completion of the goals to the portal and upload proof of maintaining 300 practice hours in a three-year timeframe. Each member has a unique account and login for the portal.

The Compliance Advisor explained that members are randomly selected for an audit to see if they have completed their CCP requirements. The Compliance Advisor explained that members chosen for an audit are sent an email from the College's Regulatory Compliance Team to notify them that their records will be reviewed. An audit email was sent to Ms. Monakhova on

January 2, 2024, at the email in the College's database. In this email, Ms. Monakhova was informed that the College was reviewing her records for completion of her 2022 and 2023 learning objectives and verification of her required practice hours, and that she needed to ensure her records were completed by February 28, 2024.

The Compliance Advisor testified that she sent an email to Ms. Monakhova on February 21, 2024, indicating that the CCP audit result was "Incomplete," advising Ms. Monakhova to review the Audit Worksheet which would give details on what was incomplete, and setting a deadline of March 31, 2024, to complete the requirements. The Compliance Advisor testified that Ms. Monakhova's portal showed that she had identified what she wanted to learn, but not why she chose that learning objective, and that her results statements were incomplete as she had not indicated the results of achieving her learning goals or explained how her practice was impacted, and she had not provided verifiable information about the steps she took to meet her learning goals. Overall, Ms. Monakhova had provided insufficient information for all four learning objectives from 2022 and 2023. Furthermore, Ms. Monakhova had not uploaded any practice hours since she became registered with the College in 2009.

The Compliance Advisor advised that Ms. Monakhova was provided a final notice that her CCP audit was incomplete on March 21, 2024. The notice provided a reminder that the CCP requirements must be met by March 31, 2024. The Compliance Advisor testified that she reviewed Ms. Monakhova's portal on March 31, 2024, and the outstanding requirements had not been completed, nor were they completed at the time of the hearing.

The Compliance Advisor testified that she also attempted to contact Ms. Monakhova by telephone on four separate occasions (March 11, March 27, April 11 and April 15, 2024) at both numbers provided by Ms. Monakhova on the College's database and left two voicemails. The Compliance Advisor was unable to reach Ms. Monakhova and never received a response back.

In response to a question from the Hearing Tribunal, the Compliance Advisor explained that the College was not aware of Ms. Monakhova not uploading any practice hours since 2009 until the audit. She further explained that although the system does not notify the College when requirements are not met, members are required to sign a declaration during their annual registration confirming that they are uploading proof of their practice hours. The College uses the declaration by the member as annual confirmation that the member is meeting the requirements. At the Hearing Tribunal's request, the Compliance Advisor also reviewed Exhibit 7 to specifically identify the deficiencies in Ms. Monakhova's Competence Records.

### *Evidence of the Registrar and CEO*

Ms. Tewes testified that she has been with the College for 16 years and in her current role as Registrar and CEO for ten years (referred to as "Registrar" in this decision). The Registrar explained she is not directly involved with the CCP but oversees the program and is kept informed of situations as they arise by the Compliance Advisors. The Registrar was advised of Ms. Monakhova's audit results and ultimately submitted a formal complaint against Ms. Monakhova to the Complaints Director, by letter dated April 26, 2024 (included in Exhibit 6).

The complaint provided a timeline of the events including the steps taken by the Registrar upon learning of which members had not completed the 2024 audit requirements.

The Registrar confirmed that on April 4, 2024, she sent Ms. Monakhova a formal notice, by registered mail, to complete any outstanding CCP requirements by April 22, 2024 (included in Exhibit 6). The Registrar used the address provided by Ms. Monakhova on the College's database.

The Registrar identified the Canada Post tracking receipt indicating the final notice letter was sent to Ms. Monakhova on April 4, 2024, by registered mail (Exhibit 8), and the Canada Post delivery progress report indicating the letter was available for pick up from April 5, 2024, but was not picked up and was eventually returned unclaimed (Exhibit 9).

With reference to the timeline outlined in her complaint, the Registrar confirmed that the CCP requirements were not completed by Ms. Monakhova by April 23, 2024. Finally, the Registrar confirmed that Ms. Monakhova declared that she fully understood the CCP requirements during the annual review process for both 2022 and 2023, by selecting "yes" as a check box in the renewal form.

#### *Additional Evidence of the Complaints Director*

The Complaints Director reconfirmed that she received and investigated the complaint against Ms. Monakhova from the Registrar. Except where indicated otherwise, the documents the Complaints Director referenced in her additional testimony were included as appendices to her investigation report (Exhibit 6).

On April 30, 2024, the Complaints Director sent a Notice of Investigation to Ms. Monakhova by registered mail, using the address Ms. Monakhova had provided to the College. The Notice of Investigation informed Ms. Monakhova that she was under investigation and what the allegations were. In a cover letter, the Complaints Director informed Ms. Monakhova what she needed to do: the Complaints Director requested a written explanation respecting the matters listed in the Notice of Investigation by no later than May 15, 2024. The Complaints Director identified the Canada Post delivery progress report showing that the Notice of Investigation package was available for pick up from May 1, 2024, but was not picked up and was eventually returned unclaimed.

The Complaints Director identified an email she sent to Ms. Monakhova on May 6, 2024, enclosing the materials she had previously sent on April 30, 2024, and a follow-up email she sent on May 16, 2024, after again receiving no response. In the follow-up email, the Complaints Director informed Ms. Monakhova that the matter would be referred to a hearing if she did not respond. The Complaints Director explained that due to the size of the attachments, two emails separating the documents had to be sent each time. The Complaints Director identified that for each of the four emails, an Outlook delivery receipt was received and testified that there were no bounce-backs nor any delivery failure messages.

The Complaints Director testified that Ms. Monakhova contacted her by telephone on June 17, 2024. During the call Ms. Monakhova requested information on what the complaint was about

and indicated that she had been out of the country for several months and unable to respond. The Complaints Director testified that she responded by explaining that the complaint was due to Ms. Monakhova's non-compliance with her CCP requirements, offering Ms. Monakhova three additional weeks to come into compliance, and providing Ms. Monakhova with the contact information for the Compliance Advisor in case she needed assistance. The Complaints Director testified that at the time of the hearing, Ms. Monakhova still had not met her CCP requirements.

## Submissions

In his submissions, Mr. Maxston emphasized there were two onuses on the Complaints Director in this hearing: first, to establish on a balance of probabilities that the alleged facts are proven, and second, to establish on a balance of probabilities the proven facts rise to the level of unprofessional conduct.

Mr. Maxston referred to the definition of "unprofessional conduct" in the Act, which includes "displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services" (s. 1(1)(pp)(i)); "contravention of this Act, a code of ethics or standard of practice" (s. 1(1)(pp)(ii)); "failure or refusal to comply with a request of or co-operate with an investigator" (s. 1(1)(pp)(vii)(B)); and "conduct that harms the integrity of the regulated profession" (s. 1(1)(pp)(xii)).

Mr. Maxston submitted that the Hearing Tribunal could use these sections of the Act as tools to measure Ms. Monakhova's conduct, along with the Code of Ethics and Standards of Practice, the professional knowledge, training and expertise of the regulated members on the Hearing Tribunal, and the Hearing Tribunal members' common sense and good judgment.

With respect to Charge 1, which alleged that Ms. Monakhova failed to maintain complete competence records including failing to upload proof of successful completion of learning objectives and verification of current practice hours, Mr. Maxston drew the Hearing Tribunal's attention to:

- Indicator 11.2(a) of the Standards of Practice, which requires regulated members to meet the annual requirements of the CCP;
- Indicator 12.2(b) of the Standards of Practice, which requires regulated members to complete the competence requirements and provide proof by the renewal deadline; and
- Indicator 18.3 of the Standards of Practice, which requires regulated members to annually complete a self-assessment, a learning plan with the required number of learning objectives, and provide supporting documentation of the competency activities undertaken.

Mr. Maxston highlighted key evidence from the Compliance Advisor and the Complaints Director which, he submitted, established that Ms. Monakhova provided vague information or was missing information in her 2022 and 2023 learning plan, did not provide sufficient verification of sources, and provided no proof of practice hours since 2009. Furthermore, despite the

discussion on June 17, 2024, between the Complaints Director and Ms. Monakhova, and the extension of three weeks provided for Ms. Monakhova to meet the requirements, she had not done so by the hearing date.

With respect to Charge 2, which alleged that Ms. Monakhova failed to respond to communications from the College in a professional and timely manner, Mr. Maxston drew the Hearing Tribunal's attention to:

- Indicators 12.2(c) and (d) of the Standards of Practice, which requires regulated members to respond and provide any information requested by the College in a timely manner and participate fully and meaningfully in inquiries, investigations, and discipline proceedings; and
- Section 6.2(c) of the Code of Ethics, which requires regulated members to communicate with the College in a professional and timely manner, by giving correspondence, communications and requests from the College "timely attention and appropriate professional response."

Mr. Maxston highlighted the evidence of multiple efforts to contact Ms. Monakhova, by the Hearings Director, the Complaints Director, the Compliance Advisor, and the Registrar.

Mr. Maxston submitted that the onus lies squarely on regulated members to provide the proper means for the College to contact them. The College cannot be held responsible for the member being unable to respond to the contact information that they provided to the College.

Mr. Maxston also emphasized that it is a fundamental responsibility of the member to respond in a timely manner, otherwise it is difficult for the College to regulate its members.

After hearing Mr. Maxston's submissions on behalf of the Complaints Director, the Hearing Tribunal adjourned to deliberate.

## Findings

After carefully reviewing and considering all of the exhibits and testimony, and all of the submissions from legal counsel, the Hearing Tribunal makes the following findings:

**Charge 1 – That for the 2022 and 2023 College of Alberta Dental Assistants registration terms, Elena Monakhova failed to maintain complete competence records including failing to upload proof of successful completion of learning objectives and verification of current practice hours.**

The Hearing Tribunal finds that Charge 1 is factually proven and amounts to unprofessional conduct.

The evidence of the Compliance Advisor and the Complaints Director clearly established that Ms. Monakhova's Competence Records were deficient including providing vague information, not providing required information, not providing proof of meeting learning plan goals, and not uploading proof of practice hours.

The Hearing Tribunal accepts the Complaints Director's evidence that she spoke with Ms. Monakhova on June 17, 2024, and, based on the statements of Ms. Monakhova, she provided Ms. Monakhova an additional three weeks to meet the CCP requirements. Despite this conversation and extension, the evidence provided by the Complaints Director is that the last time Ms. Monakhova logged into the portal was on February 16, 2024, and that, at the time of the hearing, she had still not met the necessary requirements. The Hearing Tribunal found this particularly troubling in light of the Registrar's evidence that Ms. Monakhova had selected the "Yes" checkbox on her practice permit renewal applications, declaring she fully understood the CCP requirements.

Ms. Monakhova has been a regulated member for several years. As Registered Dental Assistants are required to renew annually, the requirements and expectations of successful registration should have been well known to the member. The member demonstrated unprofessional conduct in relation to Indicator 11.2(a) of the Standards of Practice, which requires regulated members to meet the annual requirements of the CCP; and Indicator 12.2(b) of the Standards of Practice, which requires regulated members to complete the CCP requirements and provide proof by the renewal deadline. Ms. Monakhova declared she met all requirements but in fact did not meet the CCP requirements.

Although the College gave multiple extensions and offered significant assistance in helping Ms. Monakhova fulfill the requirements, there was no evidence of effort by Ms. Monakhova when the College checked her progress. Meeting CCP requirements and ensuring learning objectives are completed ensures the regulated member is meeting minimum expectations in their role for the best interest of the public. Practice permit renewal requirements are in place to ensure ongoing protection of the public when regulated members are providing their services and performing their skills. In addition to breaching provisions in the College's Standards of Practice, Ms. Monakhova's conduct reflects a lack of judgment in the practice of the profession (s. 1(1)(pp)(i) of the Act), and harms the integrity of the regulated profession (s. 1(1)(pp)(xii)). On this basis, the Hearing Tribunal is satisfied that Ms. Monakhova's conduct amounts to unprofessional conduct.

**Charge 2 – On or about January 2, 2024, and up to and including May 28, 2024, and any other dates that are pertinent, Elena Monakhova failed to respond or failed to respond meaningfully to multiple requests for response from the College of Alberta Dental Assistants regarding the matters described in charge 1.**

The Hearing Tribunal finds that Charge 2 is factually proven and amounts to unprofessional conduct.

The evidence of the Compliance Advisor, Registrar, and the Complaints Director established that College personnel attempted to communicate with Ms. Monakhova repeatedly between January 2, 2024, and May 28, 2024, without receiving any response. This started with the Compliance Advisor's January 2, 2024, email to Ms. Monakhova and other members who had been randomly selected for an audit of their Competence Records, giving a deadline of February 28, 2024, to make sure their records were ready. On February 21, 2024, after

Ms. Monakhova had not yet complied nor responded, she was sent a further email from the Compliance Advisor, giving her a new deadline of March 31, 2024. On March 21, 2024, Ms. Monakhova was reminded to complete her requirements before the approaching March 31, 2024, deadline. The Compliance Advisor also tried to call Ms. Monakhova on March 11, March 27, April 11, and April 15, 2024, with no success or response.

The Registrar also attempted to contact Ms. Monakhova by sending a formal notice to complete any outstanding CCP requirements by April 22, 2024. The notice was sent via registered mail on April 4, 2024. When Ms. Monakhova still did not comply or respond, the matter was referred to the Complaints Director.

The Complaints Director sent a Notice of Investigation to Ms. Monakhova by registered mail on April 30, 2024, and by email on May 6 and May 16, 2024, after receiving no response. In her May 16, 2024, email to Ms. Monakhova, the Complaints Director advised Ms. Monakhova that the matter would be referred to a hearing if Ms. Monakhova did not respond. The Complaints Director confirmed she did not receive any response from Ms. Monakhova until she received a call from her on June 17, 2024, stating she had been out of the country and could not reply.

The Hearing Tribunal considered the evidence that Ms. Monakhova had indicated that she had been unable to respond as she was out of the country. Notably, this call was evidence that Ms. Monakhova had been receiving correspondence from the College at either the mailing address or email address she had provided on the College's database. And although Ms. Monakhova advised that she had been unable to respond, there is no evidence to suggest that Ms. Monakhova had provided the College with alternative means of contacting her while she was out of the country. It was Ms. Monakhova's responsibility to respond to College personnel in a timely way, including while she was out of the country.

Considering all the evidence, the Hearing Tribunal is satisfied that Charge 2 is factually proven, and that Ms. Monakhova failed to respond to the many attempts of College personnel, including the Complaints Director acting as an investigator under Part 4 of the Act, to communicate with her.

Further, the Hearing Tribunal is satisfied that Ms. Monakhova's failure to respond amounts to unprofessional conduct. Indicators 12.2(c) and (d) of the Standards of Practice and 6.2(c) of the College's Code of Ethics require dental assistants to participate fully and meaningfully in inquiries, investigations and discipline proceedings and to communicate with the College in a professional and timely manner. This includes giving timely attention and appropriate professional response to correspondence, communications and requests from the College. The Hearing Tribunal was struck by the College's repeated efforts to assist Ms. Monakhova in meeting the outstanding CCP requirements. College personnel went above and beyond in providing Ms. Monakhova with opportunity to meet these requirements and avoid a disciplinary hearing. However, Ms. Monakhova failed to meet the basic expectation of responding in a timely and professional manner to the College's communications. This was a breach of Indicators 12.2(c) and (d) of the Standards of Practice and 6.2(c) of the College's Code of Ethics, and amounts to unprofessional conduct as defined in s. 1(1)(pp)(ii) of the Act. Ms. Monakhova's

conduct also reflects a serious lack of judgment (s. 1(1)(pp)(i)) and harms the integrity of the profession as a whole (s. 1(1)(pp)(xii)). The Hearing Tribunal noted the time, resources, and efforts that the College had to expend to not only try to get Ms. Monakhova to meet the requirements of the profession but also to respond to her regulator, both of which she is obligated to do as a member of the profession.

Ms. Monakhova's failure to respond to the Complaints Director acting as an investigator under Part 4 of the Act also amounts to unprofessional conduct within the meaning of s. 1(1)(pp)(vii)(B), which provides that unprofessional conduct includes a failure or refusal to comply with a request of or cooperate with an investigator. Not only does an investigator have explicit statutory authority under Part 4 of the Act to require a person to answer relevant questions, but regulated members have a professional obligation to cooperate with their regulatory body. Ms. Monakhova's failure to do so clearly amounts to unprofessional conduct.

### **Submissions Regarding Penalty**

After the Hearing Tribunal indicated that the allegations were proven, Mr. Maxston indicated the Complaints Director was prepared to proceed with submissions on sanction.

Mr. Maxston submitted that s. 82(1) of the Act sets out a seemingly exhaustive description of the types of orders the Hearing Tribunal may make, including general authority in subsection (l) to make any order the Hearing Tribunal considers appropriate, to address unique or unusual circumstances not addressed in subsections (a) through (k).

Mr. Maxston referred to the Court's decision in *Jaswal v Newfoundland Medical Board*, and the factors relevant in assessing penalty in the professional discipline context. His submissions on the relevant factors from the *Jaswal* decision were as follows:

- **Nature and gravity of proven conduct** – Regarding Charge 1, Mr. Maxston submitted that the CCP is not just about improvement but also about avoiding stagnation or regression. He noted that a failure to satisfy the requirements can create significant risks for the member and patients. As such, the CCP requirements must be taken very seriously. With respect to Charge 2, Mr. Maxston submitted that there is a significant risk when a regulated member has no communication with their regulator.
- **Number of times offence was proven to occur** – The proven allegations reflect repeated efforts by College personnel to communicate with Ms. Monakhova, most of which went unanswered. When Ms. Monakhova did respond, she did not provide a meaningful response.
- **Member's role in acknowledging what occurred** – Ms. Monakhova has chosen to withdraw herself from the hearing process, by continuing to be non-responsive and choosing to not attend the hearing. This reflects that she has not acknowledged her conduct.
- **The need to promote specific and general deterrence** – The College places a high level of trust in members to complete their CCP requirements. As such, the Hearing

Tribunal's orders must deter Ms. Monakhova, specifically, and the profession, generally, from engaging in similar conduct.

- **The need to maintain the public's confidence in the regulation of the profession –**  
The public should be able to have confidence that regulated members meet their continuing competence requirements and respond to their College in a timely way. When a member fails to meet these requirements, it creates significant risk for members of the public receiving their services.

On this basis, Mr. Maxston asked the Hearing Tribunal to reprimand Ms. Monakhova, with the Hearing Tribunal's written decision serving as the reprimand. Mr. Maxston also asked the Hearing Tribunal to suspend Ms. Monakhova's practice permit until she (1) complies with all practice permit renewal requirements at the time she seeks reinstatement, and (2) completes the Code of Ethics module and Standards of Practice module available through the College's Learning Centre for regulated members. Mr. Maxston proposed that if either module is no longer available, Ms. Monakhova may request, in writing to the Complaints Director, to take an alternate course with Ms. Monakhova to be responsible for any associated costs of the course. Finally, Mr. Maxston asked that the decision be published on the College's website for five years and identify Ms. Monakhova by name.

In response to questions from the Hearing Tribunal, Mr. Maxston confirmed that the Complaints Director was not asking the Hearing Tribunal to order Ms. Monakhova to pay any of the costs of the investigation or hearing. Mr. Maxston submitted that the particular penalties sought by the Complaints Director were proportionate to the conduct and primarily focused on rehabilitation purposes rather than punitive purposes. Mr. Maxston noted that while the conduct of Ms. Monakhova was serious, it did not involve direct harm to the public. Mr. Maxston also submitted that the Alberta Court of Appeal's decision in *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336, established that colleges should bear the costs associated with self-regulation except where conduct fits within circumstances where it is appropriate to order costs.

In response to questions about reinstatement of Ms. Monakhova's practice permit, Mr. Maxston indicated that Ms. Monakhova would be required to first correct any current deficiencies in her CCP records, then her reinstatement would be subject to whatever reinstatement policies and practices are in place at the time when she decides to reinstate. The process of reinstatement generally takes up to ten business days to process and Ms. Monakhova would be required to pay an assessment fee in addition to the registration fee. Ms. Monakhova's compliance with continuing competence requirements would also be audited again as part of the reinstatement process. The Complaints Director submitted that she would not object to the Hearing Tribunal ordering that Ms. Monakhova be required to undergo an audit in the future to ensure she is maintaining her records.

## **Penalty Orders**

The Hearing Tribunal recognizes that any penalty orders it makes must be fair, reasonable, and proportionate, taking into account the facts of this case.

The Hearing Tribunal considered the submissions on behalf of the Complaints Director, and gave its penalty order verbally before the hearing concluded on October 28, 2024, with reasons to follow.

The Hearing Tribunal accepted the penalties proposed by the Complaints Director, which were proportionate to Ms. Monakhova's conduct and consistent with penalties imposed in similar cases, with the additional requirement that Ms. Monakhova be required to undergo an audit in the future to ensure she is maintaining her records.

The Hearing Tribunal agreed that Ms. Monakhova's conduct warranted a reprimand, with this decision serving as the reprimand.

The Hearing Tribunal agreed it was necessary to immediately suspend Ms. Monakhova's practice permit, to protect the public. Given Ms. Monakhova's total lack of participation in this process, it is unclear when or if Ms. Monakhova may seek reinstatement. As such, although the Complaints Director had proposed that Ms. Monakhova be suspended until she complied with all CCP requirements for 2022 and 2023 and any outstanding requirements in place at the time she seeks reinstatement, the Hearing Tribunal considered it important to clarify that Ms. Monakhova must meet *all* practice permit renewal requirements in effect when or if she seeks to reinstate her practice permit. The Hearing Tribunal agreed with the Complaints Director's proposal that Ms. Monakhova also be required to complete the Code of Ethics and Standards of Practice modules in the College's Learning Centre before her practice permit may be reinstated, or if unavailable, she may make a written request to the Complaints Director for approval to take an alternate course at her own expense. A review of her ethical and professional obligations may help Ms. Monakhova to avoid making similar mistakes in the future.

Because the Hearing Tribunal feels it is important to ensure that Ms. Monakhova understands and meets her continuing competence obligations once she is reinstated, the Hearing Tribunal has added a requirement that Ms. Monakhova be selected for a Continuing Competence Program audit in the year following reinstatement of her practice permit.

As for publication of this decision on the College's website with Ms. Monakhova's name, the Hearing Tribunal agrees that publication provides accountability and transparency to the public. Posting the decision also serves as an educational tool for other members and demonstrates to the public that the College takes this conduct seriously.

Given that the Complaints Director is not seeking an order requiring Ms. Monakhova to pay a portion of investigation and hearing costs, the Hearing Tribunal makes no order as to costs.

Accordingly, the Hearing Tribunal made the following orders:

1. Ms. Monakhova shall receive a reprimand and the Hearing Tribunal's decision shall serve as the reprimand.
2. Ms. Monakhova's practice permit is suspended effective October 29, 2024, and shall remain suspended until she has:

- a. complied with all outstanding practice permit renewal requirements at the time she seeks to have her practice permit reinstated, including complying with all Continuing Competence Program requirements for the 2022 and 2023 registration terms, and uploading verification of practice hours, and her compliance has been audited by the College and found to meet all applicable requirements;
- b. completed the Code of Ethics module in the College's Learning Centre and provided proof of successful completion to the Complaints Director; and
- c. completed the Standards of Practice module in the College's Learning Centre and provided proof of successful completion to the Complaints Director.

If the Code of Ethics or Standards of Practice module is no longer available, then Ms. Monakhova may make a written request to the Complaints Director to approve an alternate course, and the Complaints Director will have sole discretion to approve an alternate course that addresses a regulated health professional's ethical obligations towards their regulatory body. Ms. Monakhova will be required to provide proof of completion that is satisfactory to the Complaints Director. If there is a cost to an alternate course, then Ms. Monakhova will be responsible for any such costs.

3. Ms. Monakhova shall be selected for Continuing Competence Program audit in the year following reinstatement of her practice permit.
4. The Hearing Tribunal's decision shall be published on the College's website for a period of five years, and the published decision shall name Ms. Monakhova.

Dated at the City of Edmonton, in the Province of Alberta, on the 26th day of February, 2025.

Signed on Behalf of the Hearing Tribunal

by its Chairperson

*A. Morgan Foster*

Ms. Amanda (Morgan) Foster