

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 SURINDER SUMMAN (REGISTRATION NUMBER 3547),
A REGULATED MEMBER OF
THE COLLEGE OF ALBERTA DENTAL ASSISTANTS

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

Introduction

On June 21, 2024, the Hearing Tribunal of the College of Alberta Dental Assistants (the College) issued a decision in which it found that Ms. Summan had engaged in unprofessional conduct by failing to provide satisfactory proof of professional liability insurance (PLI) with her practice permit renewal application for the December 1, 2023 to November 30, 2024 registration year, and by failing to respond to multiple attempted communications by College personnel, including the Complaints Director while acting as an investigator under the professional conduct provisions of the *Health Professions Act* (the Act). The merits decision followed a virtual hearing held on June 11, 2024. Ms. Summan did not attend the virtual hearing, and the Hearing Tribunal granted the Complaints Director's application to proceed in Ms. Summan's absence.

The Hearing Tribunal provided deadlines for the Complaints Director and Ms. Summan to make written submissions about what orders the Hearing Tribunal should make under s. 82 of the Act. The Hearing Tribunal also provided an opportunity for the Complaints Director or Ms. Summan to request a further virtual hearing date if they preferred to make oral submissions on penalty. Neither the Complaints Director nor Ms. Summan asked to make oral submissions on penalty. The Complaints Director provided written penalty submissions on July 3, 2024. Ms. Summan did not provide any penalty submissions by the deadline provided. As such, at 4:00 PM on Friday, July 19, 2024, the Hearing Tribunal met with their independent legal counsel (Kimberly Precht) to consider the Complaints Director's written penalty submissions and decide what orders to make under s. 82 of the Act.

As set out in the merits decision, the members of the Hearing Tribunal are as follows:

Patricia Hull	Chairperson and Public Member
Susan Nicoll, RDA	Member
Corinne Vollrath, RDA	Member
Emeka Ezike-Dennis	Public Member

Complaints Director's Sanctions Submissions

The Complaints Director requested that the Hearing Tribunal impose the following penalty orders:

1. Ms. Summan will be reprimanded. The Hearing Tribunal's penalty decision will constitute the reprimand.

2. Ms. Summan's practice permit will be suspended until she complies with all outstanding practice permit renewal requirements.
3. The Hearing Tribunal's merits decision and its penalty decision will be published with Ms. Summan's name. Publication will be done by posting both the merits decision and the penalty decision on the College website for five (5) years from the date of the Hearing Tribunal's penalty decision.

In support of the requested penalty orders, the Complaints Director highlighted the College's overarching and paramount public protection duty to ensure that dental assistants are practicing safely, competently, and ethically, and that patients are not harmed by their actions.

The Complaints Director submitted that the purpose of penalty orders in professional conduct hearings is to ensure the public is protected from unprofessional conduct and to maintain the integrity of the profession. This is done by ensuring the public is not at risk of continuing conduct by the registrant, by ensuring the public has confidence in the profession, and by sending an appropriate message to other members of the profession about the conduct that has been found to be unacceptable.

The Complaints Director then made submissions on the factors identified by the Newfoundland Trial Court in *Jaswal v Newfoundland (Medical Board)*, 1996 CanLII 11630 (NL SC), which should be taken into consideration by the Hearing Tribunal in determining the appropriate penalty orders. The Complaints Director's submissions on these factors can be summarized as follows:

- **The nature and gravity of the proven allegations.** The Complaints Director highlighted the importance of PLI, for registrants and patients alike. The Complaints Director submitted that not having PLI could result in the destruction of a registrant's livelihood and could compromise a patient's ability to be fully indemnified for professional errors. Further, the Complaints Director emphasized the importance of registrants being transparent with and responsive to their regulatory body. The regulation of the dental assisting profession is undermined when registrants fail to respond to communications from the College. The Complaints Director described Ms. Summan's conduct as "particularly egregious" in light of the many opportunities she was given to provide the College with satisfactory proof of PLI. The Complaints Director submitted it is extremely difficult, if not impossible, for the College to fulfil its statutory mandate if registrants are unresponsive and non-communicative, especially on matters as important as having PLI in place.
- **The age and experience of Ms. Summan.** The Complaints Director noted that Ms. Summan has been an off and on registrant with the College since December 1991, having most recently reinstated her practice permit in January 2023 and renewed her practice permit in December 2023. Ms. Summan's conduct cannot be explained by age or a lack of experience.
- **The presence or absence of prior complaints or convictions.** The Complaints Director noted Ms. Summan has no discipline history with the College before these proceedings.
- **The number of times the offence occurred.** The Complaints Director submitted that Ms. Summan's unprofessional conduct occurred first when she submitted her practice permit renewal application without proper proof of PLI, and then was repeated when Ms. Summan failed to respond to follow up communications from College staff. Despite numerous attempts to contact Ms. Summan first about her PLI and then about the

disciplinary investigation, Ms. Summan never provided any response at all, despite signing for the Notice of Investigation sent by registered mail in February 2024.

- **The role of Ms. Summan in acknowledging what occurred.** The Complaints Director submitted that Ms. Summan has withdrawn herself from these proceedings and has not provided any acknowledgement of responsibility.
- **The need to promote specific and general deterrence.** The Complaints Director submitted that the Hearing Tribunal's penalty orders must make clear to Ms. Summan and to other members of the dental assisting profession that registrants cannot practice without PLI, plain and simple, and that Ms. Summan's non-responsiveness to the College's attempts to communicate with her was irresponsible and unacceptable and cannot be condoned.
- **The need to maintain the public's confidence in the dental assisting profession.** The Complaints Director submitted that the proposed orders would demonstrate to the public that the College takes these matters seriously and is committed to upholding its legal obligations under the Act and maintaining the integrity of the profession.
- **The degree to which the unprofessional conduct falls outside the range of permitted conduct.** The Complaints Director submitted that Ms. Summan's conduct clearly fell outside the range of permitted conduct for members of the profession.

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 Complaints Director's written submissions and also carefully reviewed its authority under s. 82 of the Act to make orders after finding a registrant has engaged in unprofessional conduct.

The Hearing Tribunal makes the following orders:

1. Ms. Summan shall receive a reprimand and the Hearing Tribunal's decision shall serve as the reprimand.
2. Ms. Summan's practice permit shall be suspended until she:
 - a. complies with all outstanding practice permit renewal requirements in effect at the time Ms. Summan seeks to reinstate her practice permit; and
 - b. completes the Code of Ethics module in the College's Learning Centre and provides proof of successful completion to the Complaints Director.

If the Code of Ethics module is no longer available, then Ms. Summan 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 dental assistant's ethical obligations with respect to their regulatory body. If there are any costs associated with such alternate course, Ms. Summan shall be responsible for the costs of the alternate course.

3. The Hearing Tribunal's merits decision and penalty decision shall be published on the College website for five (5) years from the date of this penalty decision and shall identify Ms. Summan by name.

The Hearing Tribunal makes the above orders for the following reasons.

The Hearing Tribunal agrees with the Complaints Director's submissions about how the *Jaswal* factors applied in this case. The importance of PLI cannot be overstated – the consequences of practicing without PLI can be extremely serious for registrants and patients alike. As such, not providing proof of PLI as part of one's practice permit renewal application is a very serious matter. It is necessary and appropriate that Ms. Summan's practice permit be suspended until she provides proof that she has the required PLI. Depending on when Ms. Summan seeks to reinstate her practice permit, she will of course also need to meet any other applicable renewal requirements.

Further, the Hearing Tribunal is very concerned by Ms. Summan's failure to respond to or engage with the College. Members of a regulated profession must be accountable to their regulator. Ms. Summan had many opportunities to come forward and be accountable, and she has not done so. This raised concerns for the Hearing Tribunal about whether Ms. Summan properly understands her ethical responsibilities to the College. Therefore, the Hearing Tribunal also finds it appropriate to require Ms. Summan to complete the Code of Ethics module in the College's Learning Centre, before her practice permit can be reinstated, so that she can refresh her memory as to the importance of self-regulation.

It is also appropriate that Ms. Summan be reprimanded for her failure to provide the required PLI proof and her failure to respond to the College's many attempts to communicate with her. As the Hearing Tribunal wrote in its merits decision, her failure to respond was irresponsible and unacceptable and cannot be condoned.

Finally, as a matter of transparency, it is appropriate that the Hearing Tribunal's merits decision and penalty decision be published on the College's website, with Ms. Summan's name. Publication of discipline decisions such as this one allows the public to see the College's process for dealing with unprofessional conduct by its members, so that the public can have confidence in the College's commitment to its public protection mandate. It also clearly demonstrates to other members of the profession that conduct such as Ms. Summan's will not be condoned.

Dated at the City of Edmonton, in the Province of Alberta, on Tuesday, the 13th day of August, 2024.

Signed on Behalf of the Hearing Tribunal
by its Chairperson

 Patricia Hull

Ms. Patricia Hull