



COLLEGE OF  
**CHIROPRACTORS**  
— OF ALBERTA —

## Hearing Tribunal Written Decision and Orders for the Hearing of:

Dr. Pardip Athwal

On:

June 24, 2020

Posting expiration date:

August 28, 2030

IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL  
Into the Conduct of Dr. Pardip Athwal, Regulated Member of the  
Alberta College and Association of Chiropractors ("the College"), pursuant to

*THE HEALTH PROFESSIONS ACT*, being  
Chapter H-7 of the Revised Statutes of Alberta

**DECISION OF THE HEARING TRIBUNAL OF THE ALBERTA COLLEGE AND  
ASSOCIATION OF CHIROPRACTORS**

**1. Hearing**


The Hearing was conducted virtually via the Zoom video application on Wednesday June 24, 2020.

Present via Zoom video application were:

Hugh Campbell, Public Member (Chair)  
Ms. Archana Chaudhary, Public Member  
Dr. Dianna Martens, ACAC Member of the Tribunal  
Dr. Martin Sich, ACAC Member of the Tribunal  
Dr. Robert Tenhove, ACAC Member of the Tribunal  
Mr. David Jardine, Independent Legal Counsel for the Hearing Tribunal

Dr. Pardip Athwal, Investigated Member  
Ms. Lara Nelson and Ms. Kaitlin Long, Legal Counsel for Dr. Athwal

Mr. David Lawrence, ACAC Complaints Director  
Mr. Blair Maxton, Legal Counsel for the Complaints Director

  
Ms. Sandra Lea Dormer, Court Reporter

**2. Preliminary Matters**

There were no objections to the composition of the Hearing Tribunal, or to the jurisdiction of the Hearing Tribunal to proceed with the hearing by either party.

Both parties also consented to the hearing proceeding by remote video via the Zoom video application. All parties were visible on the application. The parties confirmed that the hearing was proceeding on a consent basis.

It was noted that, with the consent of the parties, the members of the Hearing Tribunal had been provided with the Amended Notice of Hearing, Agreed Statement of Facts, Admission of Unprofessional Conduct and Joint Submission on Penalty.

### **3. Allegations**

The allegations that appeared in the Amended Notice of Hearing entered as Exhibit 1 were as follows:

1. Contrary to Standard of Practice 3.3 "Disclosure of Harm", Dr. Athwal failed to appropriately respond to █████ changed health and clinical presentation, specifically failing to stop offering and/or providing intervention and non-essential treatment.
2. Contrary to Standard of Practice 3.3 "Disclosure of Harm" and Standard of Practice 4.0 "Provision of Professional Services", Dr. Athwal failed to demonstrate current knowledge and appropriately respond to █████ changed health and clinical presentation, specifically failing to engage appropriate response interventions and treatment through EMS in a timely manner.
3. Contrary to Standard of Practice 5.2 "Clinical Relevance of Treatment Recommendations", Dr. Athwal failed to appropriately examine █████ changed health; wherein "changed health" means acute onset dizziness, acute onset nausea, acute onset vomiting and acute onset severe neck pain.

IT IS FURTHER ALLEGED that the conduct described above constitutes unprofessional conduct as defined in s. 1(1)(pp) of the *Health Professions Act*,

and/or constitutes a contravention of one or more of the following (in force at the relevant time): ACAC Standards of Practice 3.3 Disclosure of Harm, 4.0 Provision of Professional Services, and 5.2 Clinical Relevance of Treatment Recommendations.

#### **4. Background**

In a complaint dated June 25, 2019, [REDACTED], a patient of Dr. Athwal's, submitted a written complaint to the College concerning Dr. Athwal and [REDACTED] attendance at the Clinic on [REDACTED] and related events (the "Complaint").

The Complaints Director informed Dr. Athwal that he was initiating an investigation into the Complaint.

The investigation was completed, and this matter was referred to a hearing pursuant to Part 4 of the *Health Professions Act*.

#### **5. Evidence**

The evidence was adduced by way of an Agreed Statement of Facts, and no witnesses were called to give *viva voce* testimony. The Hearing Tribunal accepts the evidence set out in the Agreed Statement of Facts, which was admitted as Exhibit 3 and is appended to this decision as Appendix 1.

In summary, these facts were as follows:

- On [REDACTED] at approximately [REDACTED] [REDACTED] attended Dr. Athwal's Clinic for a chiropractic adjustment.
- At approximately [REDACTED] while receiving treatment from Dr. Athwal, [REDACTED] experienced sharp neck pain, followed by dizziness, nausea, and vomiting.
- Dr. Athwal responded to [REDACTED] new onset of symptoms by suggesting that [REDACTED] was experiencing an acute onset of severe migraine symptoms, or vertigo, informing [REDACTED] of the same.
- Dr. Athwal used an activator on the other side of [REDACTED] neck.

- Dr. Athwal, and a clinic employee, assisted [REDACTED] to another treatment room.
- [REDACTED] continued to experience nausea and vomiting from the acute onset of symptoms for a period of time while at the Clinic.
- Dr. Athwal proceeded to treat [REDACTED] with acupuncture. She also manually adjusted the right side of [REDACTED] neck.
- At approximately 4:15 p.m., Dr. Athwal phoned 911.
- During the 911 call, Dr. Athwal was instructed by the 911 Operator to screen for a stroke, including asking [REDACTED] to smile, lift [REDACTED] arms, and to repeat a long sentence, all of which [REDACTED] was able to do. Dr. Athwal had not performed these tests prior to making the 911 call.
- [REDACTED] was taken to hospital via ambulance.
- On that same date, [REDACTED] was diagnosed with a probable vertebral artery dissection with a left cerebellar infarct.
- As of May 2019, [REDACTED] follow-up MRI Report indicated that [REDACTED] left vertebral artery had returned to normal.
- Contrary to Standard of Practice 3.3 "Disclosure of Harm", Dr. Athwal failed to appropriately respond to [REDACTED] changed health and clinical presentation, specifically failing to stop offering and/or providing intervention and non-essential treatment.
- Contrary to Standard of Practice 3.3 "Disclosure of Harm" and Standard of Practice 4.0 "Provision of Professional Services", Dr. Athwal failed to demonstrate current knowledge and appropriately respond to [REDACTED] changed health and clinical presentation, specifically failing to engage appropriate response interventions and treatment through EMS in a timely manner.
- Contrary to Standard of Practice 5.2 "Clinical Relevance of Treatment Recommendations", Dr. Athwal failed to appropriately examine [REDACTED] changed

health; wherein "changed health" means acute onset dizziness, acute onset nausea, acute onset vomiting and acute onset severe neck pain.

## **6. Admission of Unprofessional Conduct**

The parties presented the Hearing Tribunal with an Admission of Unprofessional Conduct, which was admitted as Exhibit 2. In the Admission of Unprofessional Conduct, Dr. Athwal stated that "I hereby admit and acknowledge that I committed unprofessional conduct with respect to charges 1 to 3 described in the Amended Notice of Hearing."

Dr. Athwal also stated that "I have had the opportunity to seek independent legal advice on this matter and that I am voluntarily executing this Admission of Unprofessional Conduct."

The parties requested that the Hearing Tribunal accept the Admission of Unprofessional Conduct and find that Dr. Athwal had admitted all the Allegations set out in the Amended Notice of Hearing.

## **7. Decision of the Hearing Tribunal**

The Hearing Tribunal accepts Dr. Athwal's admission of unprofessional conduct based on the evidence set out in the Agreed Statement of Facts. The Hearing Tribunal agrees that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the *Health Professions Act*.

## **8. Joint Submission on Penalty**

The Complaints Director and Dr. Athwal provided the Hearing Tribunal with a Joint Submission on Penalty, which was entered as Exhibit 4. As part of the Joint Submission on Penalty, the parties jointly submitted the following proposed penalties to the Hearing Tribunal for consideration:

1. Dr. Athwal will pay a fine of \$1,000.00.
2. Dr. Athwal will pay fifty (50%) percent of the costs of the investigation and hearing up to a maximum of \$7,500.00.
3. Payment of the fines and costs amounts described in orders 1 and 2 can be made in time payments (without interest) over a period determined by the Complaints Director (acting reasonably and after consultation with Dr. Athwal) provided that if an installment payment is missed then the ACAC can cancel Dr. Athwal's registration and practice permit immediately and without the necessity of a further hearing.
4. At Dr. Athwal's cost, Dr. Athwal must successfully maintain Basic Life Support training (in a course determined by the Complaints Director) and provide proof of same to the Complaints Director at the following times:
  - (a) Within three (3) months after the date of the Hearing Tribunal's written decision;
  - (b) Within fifteen (15) months after the date of the Hearing Tribunal's written decision;
  - (c) Within twenty-seven (27) months after the date of the Hearing Tribunal's written decision;

provided that, if a particular Basic Life Support training course is unavailable, the Complaints Director may, acting reasonably, direct that a substitute course be successfully completed.

5. At Dr. Athwal's cost, and within three (3) months of the date of the Hearing Tribunal's written decision, Dr. Athwal must attend and provide proof of attendance to the Complaints Director of the following courses:

a) Serious Disorders Masquerading as Musculoskeletal Pain	ACAC#3825	6 hours
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b) Vertigo: Differential diagnosis and Treatment	ACAC#3630	6 hours
c) Spinal Manipulation and Stroke 101: Research Updates	ACAC Approved (Bundle 8)	1 hour
d) Spinal Manipulation and Stroke 102: Research Updates	ACAC Approved (Bundle 13)	1 hour
e) Ethics	PACE Course 4813	2 hours

provided that, if a particular course described above is unavailable, the Complaints Director may, acting reasonably, (i) direct that a substitute course be successfully completed and/or (ii) extend the deadline for completion of one or more of the said courses.

6. The College shall publish the Hearing Tribunal written decision as outlined in ACAC Bylaw 13, with Dr. Athwal's name, and in the Registrar's Annual Report to the membership and the bi-monthly Registrar's Report.

The Parties submitted that once a Hearing Tribunal makes a finding that a member's conduct amounts to unprofessional conduct, then the Hearing Tribunal must determine the appropriate sanction. They submitted that although a Hearing Tribunal is not bound by the submissions and recommendations in a Joint Submission on Penalty and retains the jurisdiction to make whatever penalty orders it determines are appropriate, their joint submission sets out what both the Complaints Director and Dr. Athwal submit are fair and appropriate penalties in light of her conduct and the relevant facts.

The Parties noted that the primary purpose of legislation governing professionals is the protection of the public. They suggested that this meant that the fundamental purpose of penalty orders for unprofessional conduct is (i) to ensure that the public is protected from acts of unprofessional conduct and (ii) to ensure the integrity of the profession in the eyes of the public is maintained.

The Parties submitted that case law has established a list of factors that can be considered by a Hearing Tribunal when determining appropriate penalty orders and that



those factors were as follows:

1. The nature and gravity of the proven allegations;
2. The age and experience of the member;
3. The previous character of the member and in particular the presence or absence of any prior complaints or findings of unprofessional conduct;
4. The number of times the unprofessional conduct was proven to have occurred;
5. The role of the member in acknowledging what had occurred;
6. Whether the member had already suffered serious financial or other penalties as a result of the allegations having been made;
7. The impact of the incident on the complainant;
8. The presence or absence of any mitigating circumstances;
9. The need to promote specific and general deterrence and, thereby, to protect the public and ensure safe and proper practice;
10. The need to maintain the public's confidence in the integrity of the profession;
11. The degree to which the offensive conduct that was found to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct; and
12. The range of sentence in other similar cases.

The Parties also noted a number of potential mitigating factors that should also be considered in determining the proper penalty, including:

1. Attitude since the unprofessional conduct occurred. Generally speaking, a less severe punishment should be imposed on an individual who genuinely recognizes that her conduct was wrong.
2. Whether the unprofessional conduct was the member's first discipline

finding or represents repeated behaviour or a pattern of unprofessional conduct.

3. Whether the member has admitted to the unprofessional conduct (which is generally taken as showing acceptance of responsibility for one's actions).

After considering the submissions, the Hearing Tribunal agrees with the Joint Submission on Penalty and accepts the penalties as appropriate in this case.

## **9. Reasons**

The Hearing Tribunal recognizes that its orders with respect to penalty must be fair, reasonable and proportionate taking into account the facts of this case. In making its decision on penalty, the Hearing Tribunal considered the following factors:

- The nature and gravity of the proven allegations – The proven unprofessional conduct was very serious in nature and showed very poor handling of a serious medical complication during treatment of the complainant. The potential for serious harm to this patient was significant.
- The age and experience of the investigated member - The member has practiced as a Chiropractor for fifteen years and should have been capable of handling this complication in an acceptable manner.
- The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions - The member has no previous findings of unprofessional conduct.
- The age and mental condition of the victim, if any - No evidence of this was presented to the Hearing Tribunal.
- The number of times the offending conduct was proven to have occurred - The conduct was not repeated and was a onetime occurrence.
- The role of the investigated member in acknowledging what occurred - The member cooperated with the investigation and participated in the Agreed

Statement of Facts and Joint Submission on Penalty which made the Hearing much simpler and required no witness, in-person testimony.

- Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made - No direct evidence was presented of financial consequences. The member spoke to the Hearing Tribunal about the learning that she needed to improve her practice standards and the stress of the matter on her.
- The impact of the incident(s) on the victim - There was a very great impact on the victim from the incident requiring significant medical intervention and investigation. Fortunately, no permanent injury appears to have resulted from the incident.
- The presence or absence of any mitigating circumstances - The cooperation of the member and her statements to the Hearing Tribunal show her recognition of the seriousness and potential for great harm to the patient. Dr. Athwal demonstrated understanding and recognition of the education needed to upgrade her future handling of such a situation. Her cooperation with the investigation and willingness to participate in the Agreed Statement helped to streamline the process.

The Hearing Tribunal believes that the penalties proposed by the Parties adequately balance the factors referred to above and are consistent with the overarching mandate of the Hearing Tribunal, which is to ensure that the public is protected.

#### **10. Orders of the Hearing Tribunal**

The Hearing Tribunal is authorized under s. 82(1) of the *Health Professions Act* to make orders in response to findings of unprofessional conduct. The Hearing Tribunal makes the following orders pursuant to s. 82 of the *Health Professions Act*:

1. Dr. Athwal will pay a fine of \$1,000.00.
2. Dr. Athwal will pay fifty (50%) percent of the costs of the investigation and

hearing up to a maximum of \$7,500.00.

3. Payment of the fines and costs amounts described in orders 1 and 2 can be made in time payments (without interest) over a period determined by the Complaints Director (acting reasonably and after consultation with Dr. Athwal) provided that if an installment payment is missed then the ACAC can cancel Dr. Athwal's registration and practice permit immediately and without the necessity of a further hearing.
4. At Dr. Athwal's cost, Dr. Athwal must successfully maintain Basic Life Support training (in a course determined by the Complaints Director) and provide proof of same to the Complaints Director at the following times:
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5. At Dr. Athwal's cost, and within three (3) months of the date of the Hearing Tribunal's written decision, Dr. Athwal must attend and provide proof of attendance to the Complaints Director of the following courses:

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provided that, if a particular course described above is unavailable, the Complaints Director may, acting reasonably, (i) direct that a substitute course be successfully completed and/or (ii) extend the deadline for completion of one or more of the said courses.

6. The College shall publish the Hearing Tribunal's written decision, as outlined in ACAC Bylaw 13 with Dr. Athwal's name, and in the Registrar's Annual Report to the membership and the bi-monthly Registrar's Report.

Dr. Pardip Athwal shall be required to provide the ACAC with her current contact information (including home mailing address, home phone number and home e-mail address). Should this contact information change at any point prior to the orders of the Hearing Tribunal being completed, Dr. Athwal shall be required to provide the ACAC with her updated contact information.

The Hearing Tribunal retains jurisdiction to address any issues arising from non-compliance with its orders.

Dated the 23<sup>rd</sup> day of July 2020 in the City of Edmonton in the province of Alberta.



Hugh Campbell  
Chair, Hearing Tribunal  
ACAC