



— COLLEGE OF —
CHIROPRACTORS
— OF ALBERTA —

Hearing Tribunal Written Decision and Orders for the Hearing of:

Dr. Stephen Goodwin

On:

September 20, 2022

Posting expiration date:

November 10, 2032

IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL
Into the Conduct of Dr. Stephen Goodwin, a Regulated Member of the College of Chiropractors
of Alberta (CCOA), pursuant to

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

DECISION OF THE HEARING TRIBUNAL

1. Hearing

The hearing was conducted virtually on September 20, 2022. The following individuals were present:

Mr. Doug Dawson, Public Member (Chair)
Dr. Robert Tenhove, Regulated Member
Dr. Michael Stewart, Regulated Member
Shelly Flint, Public Member
Katrina Haymond, KC, Independent Legal Counsel

Ms. Sheila Steger, Complaints Director
Blair Maxston, KC, Legal Counsel for the Complaints Director

Dr. Stephen Goodwin, Investigated Person
J. Cameron Prowse, KC, Legal Counsel for the Investigated Person

2. Preliminary Matters

There were no objections to the jurisdiction or composition of the Hearing Tribunal to proceed with the hearing. There were no other preliminary matters raised by either party.

3. Allegation

The Notice of Hearing, Notice to Attend and Notice to Produce included one allegation which is reproduced below:

1. On or about July of 2019, Dr. Goodwin began a dating relationship with his patient A.W. which breached College Standard of Practice 6.3 – “Commencing a dating relationship with a Current Patient.”

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 (in force at the relevant time): ACAC Standard of Practice 6.0 – Professional Boundaries with Patients.

4. Background

On October 2, 2020, the former Complaints Director (the “Former Complaints Director”) of the College of Chiropractors of Alberta (the “College”) received anonymous information that Dr. Goodwin was in a personal relationship with A.W., one of his patients. Pursuant to s. 56 of the HPA, that information was treated as a complaint by the Former Complaints Director.

In response to the Complaint, an investigator was appointed to conduct an investigation pursuant to Part 4 of the HPA, and the Former Complaints Director subsequently referred the matter to a hearing.

5. Evidence and Admission of Unprofessional Conduct

The hearing was conducted by way of an Agreed Statement of Facts (Exhibit 2), Admission of Unprofessional Conduct (Exhibit 3) and a Joint Submission Regarding Penalty (Exhibit 4). No witnesses were called to give *viva voce* testimony.

Pursuant to the Agreed Statement of Facts, it was agreed that Dr. Goodwin was a regulated member of the College since 1997, and was the owner of “Canora Chiropractic” in Edmonton.

A.W. was a patient of Dr. Goodwin’s beginning in May of 2016, and during July 2019. A.W. attempted, on several occasions, to initiate a personal relationship. Dr. Goodwin initially declined, but in July of 2019 he accepted her invitation to go mountain biking.

In July of 2019, Dr. Goodwin referred A.W. to another chiropractor but she was unhappy with the results of those treatments and requested that Dr. Goodwin resume treating her. Dr. Goodwin did resume treating her and continued to do so until September 30, 2020.

Dr. Goodwin’s and A.W.’s social interactions continued after July 2019 and it became a dating relationship that continued uninterrupted. A.W. and Dr. Goodwin were legally married on May 1, 2022.

A.W. did not initiate the complaint to the College. In fact, she advised the Complaints Director that she was not making a complaint, and that the dating relationship began as her idea, was at her instigation, and was entirely consensual.

In the Admission of Unprofessional Conduct (Exhibit 3), Dr. Goodwin admitted that he is guilty of unprofessional conduct, and that his conduct breached Standard of Practice 6.3 – “Commencing a dating relationship with a Current Patient.”

6. Submissions

Mr. Maxston made brief submissions on behalf of the Complaints Director. He submitted that the onus is on the Complaints Director to prove the facts that give rise to the allegations, and

that the standard of proof is balance of probabilities. In this case, the parties have elected to proceed by way of Agreed Statement of Facts, and accordingly the facts are not in dispute.

Mr. Maxston also submitted that the Hearing Tribunal must consider whether the conduct rises to the level of unprofessional conduct, which is defined in s. 1(1)(pp) of the HPA to include conduct that breaches the Standards of Practice, or conduct that harms the integrity of the profession.

In addition, Mr. Maxston emphasized that there is no allegation of “sexual abuse” or “sexual misconduct”, which have a very specific meaning pursuant to the HPA and the amendments that were made following the passage of Bill 21. The allegation in the Notice of Hearing and the Admission of Unprofessional Conduct relates to a dating relationship between Dr. Goodwin and his patient, and as such the amendments in Bill 21 do not apply to this hearing.

Mr. Maxston then briefly summarized the facts set out in the Agreed Statement of Facts, and the scope of the Admission of Unprofessional Conduct. He indicated that this was a serious matter, and there was a clear breach by Dr. Goodwin of his ethical obligations and the standard of practice that applies to a dating relationship.

Mr. Prowse also made submissions on behalf of Dr. Goodwin. He submitted that while there could be some debate regarding whether going mountain biking with a patient amounts to a date, Dr. Goodwin admitted that the relationship did become a dating relationship very shortly after the mountain biking. Dr. Goodwin has admitted that his conduct constitutes unprofessional conduct in the circumstances.

7. Findings and Reasons

After hearing submissions from the parties, the Hearing Tribunal adjourned to deliberate. The Hearing Tribunal then advised the parties that it accepts Dr. Goodwin’s admission of unprofessional conduct based on the evidence set out in the Agreed Statement of Facts. Further, the Hearing Tribunal agrees that the conduct rises to the level of unprofessional conduct as defined in s. 1(1)(pp) of the HPA.

The Hearing Tribunal carefully considered the scope of the allegation set out in the Notice of Hearing. The only allegation before the Hearing Tribunal was that Dr. Goodwin entered into a “dating relationship” with A.W. Notably, there was no allegation that Dr. Goodwin and A.W. entered into a sexual relationship while she was still Dr. Goodwin’s patient (which would have constituted sexual abuse).

Based on the Agreed Statement of Facts and Dr. Goodwin’s Admission, the Hearing Tribunal found that Dr. Goodwin and A.W. entered into a “dating relationship” while A.W. was still Dr. Goodwin’s patient. Accordingly, the allegation was factually proven on a balance of probabilities.

The Hearing Tribunal also considered whether the conduct constituted “unprofessional conduct.” The Hearing Tribunal finds that Dr. Goodwin’s conduct in these circumstances breaches the College’s Standard of Practice 6.0 titled “Professional Boundaries with Patients, Including Dating and/or Sexual Relationships.” Specifically, Dr. Goodwin’s conduct breached SP 6.3, which clearly states the following:

A regulated member is prohibited from commencing a dating and/or sexual relationship with a current patient. If a current patient suggests or attempts to develop a dating and/or sexual relationship, a regulated member shall promptly:

- Inform the patient of the legal restrictions and prohibitions described in this Standard concerning a dating and/or sexual relationship and communicate proper boundaries for the doctor-patient relationship;
- Discharge the patient if the above actions do not resolve the situation; and
- Document all actions in the record of the personal health information.

The prohibition set out in SP 6.3 continues for a period of twelve months from the date that the patient is discharged from care (see SP 6.4).

SP 6.0 makes it very clear that sexual relationships and dating relationships with current patients are prohibited. Further, SP 6.0 clearly indicates that it is the regulated member, not the patient, who is responsible for enforcing appropriate boundaries. The requirement for regulated members to enforce appropriate boundaries exists given the inherent power imbalance that exists in the regulated member-patient relationship. Given the inherent power imbalance, the fact that the dating relationship was instigated by A.W. and not Dr. Goodwin does not justify or excuse Dr. Goodwin’s conduct.

In the circumstances, Dr. Goodwin’s actions clearly contravened SP 6.3. Given the importance of maintaining appropriate boundaries, the Hearing Tribunal did not view the contravention as minor. Further, the conduct represents a significant breach of trust owed by chiropractors to members of the public, and is conduct that harms the integrity of the profession. In particular, the Hearing Tribunal notes that the dating relationship commenced in July of 2019, shortly after Bill 21 was proclaimed in force. Although Bill 21 addressed sexual abuse and sexual misconduct, which are not at issue in these proceedings, the passage of Bill 21 highlighted the need for health professionals to be vigilant in maintaining appropriate boundaries. Dr. Goodwin’s actions demonstrate a serious lack of judgement and a significant departure from the conduct expected of regulated members.

In sum, the conduct is factually proven, and clearly constitutes “unprofessional conduct” in the circumstances.

8. Joint Submission Regarding Penalty

The Complaints Director and Dr. Goodwin made a Joint Submission Regarding Penalty (Exhibit 4). The parties jointly proposed that the Hearing Tribunal impose orders requiring Dr. Goodwin to pay a portion of the hearing costs in the amount of \$55,000.00, a fine in the amount of \$2,500.00, that Dr. Goodwin's practice permit be suspended for a period of fourteen consecutive days, and that the Hearing Tribunal's decision will be published with Dr. Goodwin's name.

In the Joint Submission Regarding Penalty, the parties jointly indicated that there were a number of factors relevant to assessing penalty, including: Dr. Goodwin's conduct fell below the required ethical standards, involved a lack of judgement and professionalism, and harmed the integrity of the profession. In addition, Dr. Goodwin admitted his conduct, which demonstrates acceptance of responsibility for his actions.

Mr. Maxston also made submissions on behalf of the Complaints Director during the course of the hearing. After he reviewed the orders jointly proposed by the parties, he submitted that when considering a Joint Submission on Penalty, the Hearing Tribunal is obliged to exercise deference, and should not deviate from it unless it is contrary to the public interest or clearly inappropriate or unreasonable.

Mr. Prowse also made submissions on behalf of Dr. Goodwin. He emphasized that Dr. Goodwin has been a chiropractor since 1997 and has never been the subject of any discipline proceedings previously. In fact, leading up to the hearing Mr. Prowse obtained 35 letters in support of Dr. Goodwin, and read excerpts from several letters. He submitted that the rules prohibiting a dating relationship were put in place to ensure that predators do not take advantage of their patients, and that this was not a case about predation. In fact, it was A.W. who pursued Dr. Goodwin, not the other way around, nor did it have anything to do with sexual misconduct or sexual abuse. Further, there was no evidence of a pattern or series of misconduct, and the allegation only involved one patient. Additionally, Dr. Goodwin admitted his conduct, which is a significant mitigating factor. Further, there was no negative impact on the patient in this case, since A.W. and Dr. Goodwin are now married. In fact, Mr. Prowse submitted that this is a mitigating factor to be considered. With respect to the need to promote deterrence, and promote confidence in the profession, Mr. Prowse submitted that the penalty is likely to be viewed as being harsh in all of the circumstances.

In response to a question regarding the wording of the proposed order in penalty #1, Mr. Maxston clarified that there was a missing word, and indicated that it should state: "defaults with respect to a **time** payment" instead of "payment."

9. Decision on Penalty

The Hearing Tribunal agrees with the Joint Submission Regarding Penalty and finds that the orders proposed by the parties are appropriate in this case, having regard to the conduct identified in the Notice of Hearing.

The Hearing Tribunal makes the following orders pursuant to section 82 of the HPA:

1. Dr. Goodwin will pay a portion of the investigation and hearing cost in the amount of \$55,000.00 payable as follows:
 - a. \$5,000.00 payable within thirty (30) days of the date of the Hearing Tribunal's written decision;
 - b. \$50,000.00 in costs payable in forty-eight (48) equal monthly installments, without interest, commencing on the 15th day of the month immediately following the date of the written decision of the Hearing Tribunal.

Provided, however, that if Dr. Goodwin defaults with respect to a time payment, the entire balance of the unpaid costs shall become immediately payable, and the College shall, without the necessity of any further steps, automatically suspend Dr. Goodwin's practice permit until the entire balance of the costs are paid in full.

2. Dr. Goodwin will pay a fine of \$2,500.00 within thirty (30) days of the date the Hearing Tribunal's written decision is provided however, that if Dr. Goodwin defaults with respect to this payment the entire fine shall become immediately payable and the College shall, without the necessity of any further steps, automatically cancel Dr. Goodwin's practice permit until the entire fine is paid in full.
3. Dr. Goodwin's practice permit shall be suspended for fourteen (14) consecutive days within one (1) year of the date of the Hearing Tribunal's written decision with the commencement of the suspension to begin on a date selected by the Complaints Director after reasonable notice to Dr. Goodwin.
4. The College shall publish the Hearing Tribunal's written decision, with Dr. Goodwin's name, pursuant to College Bylaw 8.1.

In making the above orders, the Hearing Tribunal considered the evidence, and the submissions presented by the parties. While the Hearing Tribunal is not bound to accept a Joint Submission, considerable deference should be afforded, and the Hearing Tribunal should only deviate from a Joint Submission if it would bring the administration of justice into disrepute. The Hearing Tribunal determined that the orders jointly proposed were sufficient to achieve the goal of public protection, and to deter other members of the profession from engaging in similar conduct in the future.

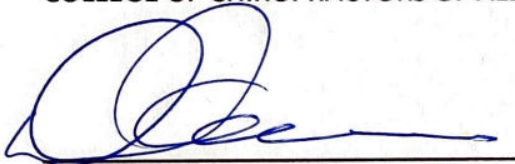
While the Hearing Tribunal found no reason to reject or vary the orders that were proposed by the parties, the Hearing Tribunal wishes to make it clear that the conduct in issue is extremely serious. The Hearing Tribunal did not agree with the submissions on behalf of Dr. Goodwin that the fact that it was A.W. who instigated the relationship, or their subsequent marriage, were properly considered to constitute mitigating factors. Regulated members are required to adhere to the College's Standards of Practice, which clearly establish that it is inappropriate to enter into

the fact that it was A.W. who instigated the relationship, or their subsequent marriage, were properly considered to constitute mitigating factors. Regulated members are required to adhere to the College's Standards of Practice, which clearly establish that it is inappropriate to enter into a dating relationship with a patient. This is the case regardless of who instigates the relationship, and regardless of whether it is consensual. While dating relationships with former patients are permitted, a "cooling off" period of twelve months is required. This provides sufficient time to ensure that the power dynamic inherent in the chiropractor-patient relationship is no longer a factor, and that the patient's consent is genuine.

While the Hearing Tribunal was prepared to accept the Joint Submission, the Hearing Tribunal wishes to make it clear that it is not up to the patient to enforce appropriate boundaries. The College has been entrusted with the privilege of self-regulation. Within this framework, it is the responsibility of regulated members to remain vigilant in establishing and maintaining appropriate boundaries; it is not up to the patient to do so.

DATED THIS 1 DAY OF NOVEMBER IN THE CITY OF EDMONTON, ALBERTA.

COLLEGE OF CHIROPRACTORS OF ALBERTA

A handwritten signature in blue ink, appearing to read 'Doug Dawson', is written over a horizontal line.

Doug Dawson
Chair, Hearing Tribunal
CCOA

cc. Hearing Tribunal members