



COLLEGE OF
CHIROPRACTORS
— OF ALBERTA —

Hearing Tribunal Written Decision and Orders for the Hearing of:

Mr. Ronald Latch

On:

April 14, 2021

Posting expiration date:

No Expiration Date

IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL
Into the Conduct of Ronald Latch, a former Regulated Member of the Alberta
College and Association of Chiropractors ("ACAC"), pursuant to

THE HEALTH PROFESSIONS ACT,
R.S.A.2000, c. P-14

DECISION OF THE HEARING TRIBUNAL

1. Hearing

The Hearing was conducted virtually using Zoom technology on April 14, 2021.
The following individuals participated in the virtual hearing:

James Lees, Public Member, Chair
Archana Chaudhary, Public Member
Dr. Dianna Martens, ACAC Registered Member
Dr. Robert Tenhove, ACAC Registered Member
Karen Smith, Independent Legal Counsel

David Lawrence, ACAC Complaints Director
Blair Maxston, Legal Counsel to Complaints Director

Karan Aujla, Legal Counsel to Ronald Latch, the Investigated Former Member

Lindsey Byrt, Court Reporter

2. Preliminary Matters

There were no objections to the jurisdiction or composition of the Hearing Tribunal to proceed with the hearing, and no objections to using Zoom technology to hold this hearing. There were no preliminary matters raised by either party. Mr. Latch was aware of his right to legal representation and was represented by counsel, Mr. Karan Aujla. Mr. Latch did not attend the hearing which was held virtually.

Mr. Aujla confirmed that he had waived the thirty (30) day notice of the said hearing required by section 77(a) of the Health Professions Act.

3. Allegations

The allegations that appear in the Notice of Hearing are as follows:

1. On or about March 1, 2021, Ronald Latch was convicted of six (6) counts of sexual assault pursuant to the Criminal Code of Canada for sexual assault

of certain of his patients while he treated them as a chiropractor, all of which constitutes unprofessional conduct under the *Health Professions Act* of Alberta (including sexual abuse and/or sexual misconduct) and which breached:

- (a) ACAC "Standards of Practice 6.6 – Sexual Abuse"
- (b) ACAC "Standards of Practice 6.7 – Sexual Misconduct"
- (c) ACAC "Standards of Practice 6.8 – Conviction of Criminal Code Offenses"
- (d) ACAC "Standards of Practice 6.1 – Professional Boundaries With Patients"
- (e) ACAC "Code of Ethics – Principle 2 – Non-Maleficence (Do No Harm)"
- (f) ACAC "Code of Ethics – Principle 3 – Beneficence"
- (g) ACAC "code of Ethics Article C1 – Support of Self-Regulation of the Profession" and/or
- (h) ACAC "Code of Ethics Article D1 – Recognition of Responsibilities to Society"

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 6.6 – Sexual Abuse, 6.7 – Sexual Misconduct, 6.8 – Conviction of Criminal Code Offenses, 6.1 – Professional Boundaries With Patients, ACAC Code of Ethics Principle 2 – Non-Maleficence (Do No Harm), Principle 3 – Beneficence, Article C1 – Support of Self-Regulation of the Profession and/or Article D1 – Recognition of Responsibilities to Society.

4. Evidence

The Hearing Tribunal was conducted by way of a consent hearing. No witnesses were called to provide evidence. With the agreement of Mr. Aujla, Mr. Maxston, counsel for the Complaints Director, entered the following documents into evidence as exhibits:

- Exhibit #1 Notice of Hearing, Notice to Attend As Witness and Notice to Produce
- Exhibit #2 Admission of Unprofessional Conduct
- Exhibit #3 Agreed Statement of Facts with Appendix A: Section 65 Decision Letter dated August 21, 2019, and Appendix B: Criminal Court Agreed Statement of Facts.

Exhibit #4 Joint Submission Regarding Penalty

At the outset of the hearing, Mr. Aujla confirmed that both he and Mr. Latch had received all of the documents noted above and had no additional documents to submit during the hearing.

A) Background:

The Complaints Director and Mr. Latch have agreed that the following facts may be taken as proven in evidence before the Hearing Tribunal and that there is no dispute between the parties with regard to these facts.

- The parties agree that for the purposes of this hearing and this Agreed Statement of Facts the term "College" shall include the Alberta College and Association of Chiropractors and all predecessor colleges under prior applicable legislation.
- At all times relevant to the charge in the Notice of Hearing, Notice to Attend and Notice to Produce dated March 18, 2021 (Exhibit #1) Mr. Latch was a regulated member or registered member of the College. Specifically, Mr. Latch became a member of the College on July 1, 1981. On October 31, 2019 Mr. Latch ceased to be a regulated member of the College and changed his status to non-practicing.
- In August 2019, following notification from the Edmonton Police Service that a criminal investigation had been initiated into the conduct of Mr. Latch and alleged sexual assaults by him against his former patients, the then Complaints Director of the College treated that information as a complaint pursuant to section 56 of the *HPA*.
- On August 15, 2019, the Complaints Director for the College requested that consideration be given to recommendations pursuant to section 65 of the *Act* for the imposition of conditions or the suspension of the practice permit of Mr. Latch, pending the completion of proceedings under Part 4 of the *Act*.
- On August 19, 2019 Mr. Latch was advised in writing that following consideration of submissions from the College and legal counsel for Mr. Latch, a decision had been made to place specific conditions on his practice permit on an interim basis effective August 23, 2019. Details regarding the decision and the conditions are outlined in Appendix A, Exhibit #3 – Section 65 Letter dated August 21, 2019.

- On or about September 13, 2019 the then Complaints Director determined that an investigation of Mr. Latch's conduct would be commenced pursuant to section 55(2) of the HPA (the "Investigation").
- In September 2019, the Investigation by ACAC was placed in abeyance pending the outcome of the Edmonton Police Service criminal investigation and any Criminal Court proceedings.
- In September 2019, Mr. Latch was charged with twenty (20) Counts under the Criminal Code relating to sexual assault, gross indecency and unlawful touching of his patients while he was a practicing chiropractor.
- In the Criminal Court Agreed Statement of Facts dated March 1, 2021, generated in relation to the aforesaid criminal charges, Mr. Latch pled guilty to six (6) criminal charges of sexual assault against certain of his former chiropractic patients. The said Criminal Court Agreed Statement of Facts (redacted to ensure anonymity of victims) is attached as Appendix "B" to Exhibit #2, Agreed Statement of Facts.
- On or about March 2021 the Complaints Director completed the ACAC Investigation and prepared an Investigation Report.
- On or about March 2021 the Complaints Director then referred this matter to a hearing.

B) Facts Relating to the Complaint

- On or about March 1, 2021 Mr. Latch was convicted of six (6) Counts of sexual assault pursuant to the Criminal Code of Canada for sexual assault of certain of his patients while he treated them as a chiropractor.
- Mr. Latch has not yet been sentenced by the criminal courts regarding the said convictions of sexual assault pursuant to the Criminal Code of Canada but he has been advised that the sentencing will include incarceration.
- Mr. Latch's conduct constitutes unprofessional conduct as defined in the *HPA* and, more specifically, constitutes "sexual abuse" as defined in section 1(1)(nn.1) of the *HPA* and "sexual misconduct" as defined in section 1(1)(nn.1) and (nn.2) of the *HPA*. The statutory definitions of "sexual abuse" and "sexual misconduct" in the *HPA* are as follows:

1(1)(nn.1) "sexual abuse" means the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:

- (i) sexual interference between a regulated member and a patient of that regulated member;

- (ii) genital to genital, genital to anal, oral to genital, or oral to anal contact between a regulated member and a patient of that regulated member;
- (iii) masturbation of a regulated member by, or in the presence of, a patient of that regulated member;
- (iv) masturbation of a regulated member's patient by that regulated member;
- (v) encouraging a regulated member's patient to masturbate in the presence of that regulated member;
- (vi) touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by a regulated member;

1(1)(nn.2) "sexual misconduct" means any incident or repeated incidents of objectionable or unwelcome conduct, behavior or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being, but does not include sexual abuse;

- Furthermore, Mr. Latch's unprofessional conduct breached:
 - (a) ACAC "Standards of Practice 6.6 – Sexual Abuse"
 - (b) ACAC "Standards of Practice 6.7 – Sexual Misconduct"
 - (c) ACAC "Standards of Practice 6.8 – Conviction of Criminal Code Offenses"
 - (d) ACAC "Standards of Practice 6.1 – Professional Boundaries With Patients"
 - (e) ACAC "Code of Ethics – Principle 2 – Non-Maleficence (Do No Harm)"
 - (f) ACAC "Code of Ethics – Principle 3 – Beneficence"
 - (g) ACAC "Code of Ethics Article C1 – Support of Self-Regulation of the Profession"; and,
 - (h) ACAC "Code of Ethics Article D1 – Recognition of Responsibilities to Society"

The Agreed Statement of Facts (Exhibit #3) was agreed to by both parties, as acknowledged by Mr. Latch's signature on March 26, 2021 and the Complaints Director's signature on March 29, 2021.

No additional facts or information regarding the allegations were submitted to the Hearing Tribunal other than that in the Agreed Statement of Facts.

5. Submissions by the Parties

A. By Counsel for the Complaints Director

Mr. Maxston addressed the hearing, noting that the Complaints Director has responsibility for firstly, proving the facts in this matter, and secondly proving that these facts rise to the level of unprofessional conduct as defined in s. 1(1)(pp) of the *Act*.

Mr. Maxston submitted that under section 54 of the Act, the College has jurisdiction for the Complaint Process over both current and former members, recognizing there is a two-year limit for former members. Mr. Latch was a member of the College until October 31, 2019, which is well within the 2-year limit. Mr. Latch waived the requirement under section 77a) of the Act for a thirty (30) day notice period with respect to the hearing process. Mr. Maxston further noted that under section 78 of the Act, this hearing is open to the public unless otherwise agreed to. In order to maintain and protect the confidentiality of individuals, patient information has been redacted, and where appropriate, patient initials have been used instead of names.

Mr. Maxston then spoke to the Exhibits that were entered into evidence:

Exhibit #1 – Notice of Hearing – specifies one allegation arising from Mr. Latch's conviction on 6 counts of sexual assault of certain of his patients while he treated them as a chiropractor; his conduct breaches the Code of Ethics and Standards of Practice for the practice of chiropractic.

Exhibit #2 – Admission of Unprofessional Conduct – Mr. Latch has admitted to the actions alleged in the Notice of Hearing.

Exhibit #3 – Agreed Statement of Facts – includes Background Matters, The Complaint and Matters Giving Rise To The Hearing, Facts Relating to the Charges, Appendix a) Letter from ACAC to Mr. Latch regarding practice permit conditions, and Appendix b) Criminal Court Agreed Statement of Facts. Exhibit #3.b) includes a statement from Dr. F. Stuart Kissinger, who provided expert evidence for the Crown regarding Mr. Latch's alleged conduct.

Mr. Maxston submitted that the facts in this matter are clear and undisputed. The conduct of Mr. Latch is a serious breach rising to the level of unprofessional conduct involving sexual abuse and sexual misconduct. The hearing today will proceed as a consent hearing with an admission, and will have serious consequences for several people. The facts as stated in Exhibit #3 are uncontested by the parties and can be accepted by the Hearing Tribunal as proven.

B. By Counsel for Mr. Latch

Mr. Aujla had no comment, other than to confirm the hearing today is proceeding by way of consent.

The Hearing Tribunal went into recess to consider the exhibits and information with respect to the allegations regarding Mr. Latch's conduct.

6. Findings and Reasons

The Hearing Tribunal finds that the allegations regarding the conduct of Mr. Latch as described in the Notice of Hearing have been factually proven, and accepts the admission by Mr. Latch that his conduct was unprofessional as defined in s. 1(1)(pp) of the *Act*.

The Hearing Tribunal noted that under section 70 of the *Act*, an investigated member is permitted to make an admission of unprofessional conduct, and an admission under section 70 of the *Act* must be acceptable in whole or in part to the Hearing Tribunal.

The reasons for the Hearing Tribunal's findings are as follows:

With respect to Allegation 1, Mr. Latch was convicted on six (6) counts of sexual assault on or about March 2021 pursuant to the Criminal Code of Canada for sexual assault of certain of his patients while he treated them as a chiropractor during the early 1980s. His conduct meets the threshold for unprofessional conduct as defined in s. 1(1)(pp) of the Health Professions Act, specifically:

- (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of chiropractic services;
- (ii) contravention of this *Act*, a code of ethics or standards of practice;
- (iii) contravention of another enactment that applies to the profession;
- (xii) conduct that harms the integrity of the regulated profession;

Mr. Latch's conduct also constitutes "sexual abuse" as defined in s. 1(1)(nn.1) of the *Act*, and "sexual misconduct" as defined in s. 1(1)(nn.2) of the *Act*:

s. 1(1)(nn.1) "sexual abuse" means the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:

- (j) sexual interference between a regulated member and a patient of that regulated member;
- (vii) genital to genital, genital to anal, oral to genital, or oral to anal contact between a regulated member and a patient of that regulated member;
- (viii) masturbation of a regulated member by, or in the presence of, a patient of that regulated member;
- (ix) masturbation of a regulated member's patient by that regulated member;
- (x) encouraging a regulated member's patient to masturbate in the presence of that regulated member;
- (xi) touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by a regulated member;

s. 1(1)(nn.2) "sexual misconduct" means any incident or repeated incidents of objectionable or unwelcome conduct, behavior or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought

reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being, but does not include sexual abuse;

Mr. Maxston stated that in this matter, the Criminal court Agreed Statement of Facts in a criminal matter is acceptable to the Hearing Tribunal, and the Hearing Tribunal is entitled to accept such facts as true and accurate since the Courts are held to a higher standard. The Hearing Tribunal finds that the facts are clear and undisputed evidence of unprofessional conduct by Mr. Latch as defined in s. 1(1)(pp) of the *Act*.

Furthermore, Mr. Latch's conduct satisfies the definitions for sexual abuse and sexual misconduct found in s. 1(1)(nn.1) and 1(1)(nn.2) of the *Act* which came into effect April 1, 2019. The allegations against Mr. Latch fall within the applicable 2-year limitation as the College initiated its investigation into Mr. Latch's conduct on September 13, 2019.

The Hearing Tribunal considered the applicable sections of the ACAC Standards of Practice and Code of Ethics, specifically:

- ACAC Standards of Practice 6.6 - Sexual Abuse
- ACAC Standards of Practice 6.7 - Sexual Misconduct
- ACAC standards of Practice 6.8 – Conviction of Criminal Code Offenses
- ACAC Standards of Practice – Professional Boundaries With Patients;
- ACAC Code of Ethics Principle 2 – Non-Maleficence (Do No Harm)
- ACAC Code of Ethics – Principle 3 – Beneficence
- ACAC Code of Ethics Article C1 – Support of Self-Regulation of the Profession
- ACAC Code of Ethics Article D1 – Recognition of Responsibilities to Society

The Hearing Tribunal finds that the proven conduct of Mr. Latch contravenes all of the above. Mr. Latch's conduct has been factually proven, and he has admitted to all of the allegations on a consent (uncontested) basis.

7. Sanctions

a). Submission By Counsel For Complaints Director:

Counsel for the Complaints Director referred to Exhibit #4, Joint Submission on Penalty, which jointly proposes the following orders:

1. Mr. Latch is permanently prohibited from practicing chiropractic as a regulated member of the ACAC.
2. Mr. Latch is permanently prohibited from working or practicing in the chiropractic profession in Alberta whether as a paid or unpaid employee, volunteer, contractor or student in a clinical or any other practice setting.
3. Mr. Latch will pay all of the costs of the investigation and hearing.

4. The College shall publish the Hearing Tribunal's written decision, with Mr. Latch's name, pursuant to ACAC bylaw 13.0 Publication of Conduct Hearings, Appeals & Agreements and Undertakings.
5. The College shall immediately advise all chiropractic regulatory colleges in Canada of the Hearing Tribunal decision, findings and penalties.

Once a Hearing Tribunal makes a finding that a member's conduct amounts to unprofessional conduct, the Hearing Tribunal must then determine the appropriate sanction, or order(s).

Mr. Maxston stated that the Hearing Tribunal has three types of order-making authority under section 82 of the *Act*, which are as follows:

1. General order – which includes every option from a reprimand or caution to restrictions on practice, all the way up to suspension and cancellation.
2. Order for Fines – s. 158 of the *Act* contains a table which sets out the maximum amount of a single fine, and the total amount of all aggregate fines; column 3 of this table applies to the chiropractic profession.
3. Order for Costs – which requires a member to pay all or a portion of the costs of the investigation and the hearing, with no fixed limits.

Mr. Maxston noted that Exhibit #2, Admission of Unprofessional Conduct includes a provision in Point 6. which says: "I covenant and agree to never seek reinstatement of my registration as a regulated member of the College and to never seek issuance of a practice permit from the College." Mr. Latch has agreed to and signed the Admission of Unprofessional Conduct, including this provision.

The primary purpose of legislation governing professionals is the protection of the public. 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. Other purposes include procedural fairness, deterrence (both specific & general), and rehabilitation/remediation of the investigated member.

Case law has set out a number of factors (the "*Jaswal*" factors") that can be taken into account by a Hearing Tribunal when determining appropriate penalty orders. These factors include the following:

- The nature and gravity of the proven allegations –sexual abuse and sexual misconduct is considered to be most severe, and at the very high end of the scale of unprofessional conduct;
- The age and experience of the member – Mr. Latch was experienced and was well aware of the professional obligations surrounding his conduct ;
- The previous character of the member and in particular the presence or absence of any prior complaints or findings of unprofessional conduct – no prior complaints or convictions;

- The number of times the unprofessional conduct was proven to have occurred – six individuals were identified with repeated violations; a pattern of unprofessional conduct was established;
- The role of the member in acknowledging what had occurred – somewhat mitigating, in that Mr. Latch admitted to his actions and agreed to a consent hearing;
- The impact of the incident(s) on the complainant – the College was the complainant, however there were several former patients who were victims of the conduct. The nature of the convictions assumes a significant impact on the patients;
- The need to promote specific and general deterrence and, thereby, to protect the public and ensure safe and proper practice – both are important; need to send a message to other members and the general public that this type of conduct will not be tolerated;
- The need to maintain the public's confidence in the integrity of the profession – through general deterrence and publication of the decision;
- 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 – Mr. Latch's conduct was clearly outside the range of acceptable behaviors, and resulted in a criminal conviction;
- The range of sentences in other similar cases – no similar or other cases were submitted.

Mr. Maxston stated that while the parties have agreed on a joint submission as to penalty, the Hearing Tribunal is aware of the well-established legal principles indicating that deference should be shown to a joint submission on penalties as a joint submission on penalties promotes certainty for both the member and the regulatory body, reduces the time and cost associated with contested hearings, and are the product of careful negotiation. Although the Hearing Tribunal retains ultimate discretion in terms of the making of penalty orders, it is aware of the legal principles which establish that a decision-maker such as this Hearing Tribunal should not depart from a joint submission on sanction unless the joint submission is unfit, unreasonable or contrary to the public interest.

b.) Submission by Counsel for Mr. Latch

Mr. Aujla addressed the hearing, noting that this is a joint submission on penalty, and Mr. Latch has admitted to his conduct and the facts relating to it. Mr. Aujla asked of the Hearing Tribunal to be as reasonable as possible regarding the assignment of costs, given Mr. Latch's poor financial situation and pending incarceration.

With these concepts in mind, the Hearing Tribunal finds that the joint submission regarding penalty agreed to by both parties represents fair, reasonable, and proportionate consequences and penalties to be imposed upon Mr. Latch following consideration of the decision of the Hearing Tribunal, the relevant facts, Mr. Latch's serious and egregious unprofessional conduct, and all the relevant legislation. It is important to note that the Hearing Tribunal is bound by provisions in the Health Professions Act that impose mandatory penalties for sexual assault and sexual misconduct, including cancellation of the investigated person's practice permit and registration. The factual matrix of Mr. Latch's conduct fits the definitions for sexual

abuse and sexual misconduct introduced through legislative changes that came into effect in 2019.

The Hearing Tribunal therefore makes the following orders with respect to Mr. Latch in accordance with s. 82 of the *Act*:

- 1, Mr. Latch is permanently prohibited from practicing chiropractic as a regulated member of the ACAC.
2. Mr. Latch is permanently prohibited from working or practicing in the chiropractic profession in Alberta whether as a paid or unpaid employee, volunteer, contractor or student in a clinical or any other practice setting.
3. Mr. Latch will pay all of the costs of the investigation and hearing.
4. The College shall publish the Hearing Tribunal's written decision, with Mr. Latch's name, pursuant to ACAC bylaw 13.0 Publication of Conduct Hearings, Appeals & Agreements and Undertakings.
5. The College shall immediately advise all chiropractic regulatory colleges in Canada of the Hearing Tribunal decision, findings and penalties.

DATED THIS 17th DAY OF JUNE 2021, IN THE CITY OF EDMONTON, ALBERTA

ALBERTA COLLEGE AND ASSOCIATION OF CHIROPRACTORS


James Lees, Public Member
Chair, Hearing Tribunal