



— COLLEGE OF —
CHIROPRACTORS
— OF ALBERTA —

Hearing Tribunal Written Decision and Orders for the Hearing of:

Christopher Senko

On:

November 7, 2024

Posting expiration date:

November 7, 2034

IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL
into the Conduct of Christopher Senko, a former Regulated Member
of the College of Chiropractors of Alberta (“the “College”), 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 October 30, 2024. The following individuals were present:

Vince Paniak, Public Member (Chair)
Dr. Leslie Aldcorn, Regulated Member
Dr. Darrell Smith, Regulated Member
Lyle Guard, Public Member
Vivian Stevenson K.C., Independent Legal Counsel

Ms. Kerstin Hurd, Complaints Director
Blair Maxton K.C., Legal Counsel for the Complaints Director

Christopher Senko, Investigated Person

2. Preliminary Matters

Independent Legal Counsel advised Mr. Senko and counsel for the Complaints Director that one of the members of the Hearing Tribunal had provided contract services to her firm in the past and she wanted to advise the parties in case that information raised any concerns. There were no concerns expressed by the parties and no objections by the parties to the jurisdiction or composition of the Hearing Tribunal.

The Chair confirmed with Mr. Senko that Mr. Senko had been represented by a lawyer until recently, that Mr. Senko understood he was entitled to have a lawyer at the hearing, and that Mr. Senko had waived that right and was prepared to proceed representing himself. There were no other preliminary matters raised by either party.

3. Allegations

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

1. On or about the period between January 1, 2016, and June 30, 2020, Mr. Senko failed to maintain appropriate patient health records which constitutes unprofessional conduct

pursuant to section 1(1)(pp) of the *Health Professions Act* including by breaching CCOA Standard of Practice 5.1 – Record Keeping Requirements.

2. On or about the period between January 1, 2016 and June 30, 2020, Mr. Senko engaged in inappropriate billing practices which constitutes unprofessional conduct pursuant to section 1(1)(pp) of the *Health Professions Act* including by breaching CCOA Standard of Practice 2.0 – Financial Accountability, Standard of Practice 2.3 – Prepayment of Fees, Standard of Practice 2.5 – Billing Practices, CCOA Code of Ethics Article B6 – Fees and Compensation for Service, CCOA Code of Ethics Principle 5 – Veracity, CCOA Code of Ethics Article C1 – Support of Self-Regulation of the Profession, CCOA Code of Ethics Article C6 – Intra-Professional Behavior and/or CCOA Code of Ethics Article D1 – Recognition of Responsibilities to Profession by:

- (a) Retaining unused portions of prepaid fee amounts and/or not returning these funds to patients;
- (b) Billing goods and services with names of persons other than the patient or patients who received the chiropractic services;
- (c) Billing for dates when no services were provided; and/or
- (d) Submitting claim forms with incorrect, missing and/or incomplete information.

4. Background

On October 8, 2020, the Complaints Director of the College received a complaint from Green Shields Canada (“GSC”) regarding alleged inappropriate claims submissions by Mr. Senko for insured chiropractic services (the “Complaint Letter”).

The Complaints Director for the College subsequently referred the matter for investigation in accordance with s. 55(2)(d) of the *Health Professions Act* (“HPA”). An investigator was appointed to investigate the complaint, and the investigator prepared a report (the “Investigation Report”).

Following receipt of the Investigation Report, the Complaints Director determined that the matter should be referred to the Hearings Director in accordance with s. 66(3)(a) of the HPA.

A Notice of Hearing, Notice to Attend and Notice to Produce were served upon Mr. Senko in accordance with the HPA and were marked collectively as Exhibit 1 at the hearing.

5. Evidence and Admission of Unprofessional Conduct

The hearing was conducted by way of an Admission of Unprofessional Conduct (Exhibit 2), an Agreed Statement of Facts (Exhibit 3) and a Joint Submission Regarding Penalties (Exhibit 4). No witnesses were called. The facts referenced in this section of the decision are from the Agreed Statement of Facts and are not in dispute.

At the relevant time Mr. Senko practiced at Coates Community Chiropractic (“CCC”) in Red Deer, Alberta.

On October 8, 2020, GSC advised the Complaints Director that during its regular reviews of its providers, GSC reviewed claims naming Mr. Senko and other practitioners as rendering treatment at CCC for the period from January 1, 2016, through to June 30, 2020, to one family who had two plans with GSC. The family had a total of 464 claims during that time frame. GSC advised that upon reviewing the treatment records for this family, it noted various issues with the records submitted from CCC including the following:

- Each page of the treatment records did not include the patients’ name or date of birth.
- There were no preliminary assessment notes nor reassessment notes included.
- There were no consent forms for direct billing.
- There were no objective findings to support a diagnosis, nor did the provider include a working diagnosis and/or index of suspicion.
- They had no indication if the patients tolerated the treatment.
- They had no subjective findings of the provider.
- They included billing to GSC for x-rays, but there were no x-ray reports included, nor any reference to the x-rays in the treatment notes.
- They had little information provided regarding what treatment was rendered (e.g., adjustments or modalities).
- They had no Information regarding plan of care and/or what treatment would consist of.
- They had excessive treatments, with no change in condition, as evidenced by the treatment records for each participant being essentially unchanged from the first treatment note to the last treatment note submitted (or a period of approximately 2 years).
- They were requested from the Member on April 24, 2020, and were not received until July 23, 2020.
- They were missing treatment notes for 45 Chiropractic Services and/or x-rays billed to GSC for these patients.
- Treatment notes referred to massage therapy services. The named providers who GSC was able to reach indicated that their records were entrusted to Mr. Senko. Although he is the reported custodian of the records, the records were not provided.

- One of the massage therapists in the records was not licensed and had not worked at the clinic since 2016, however according to the records this therapist continued to treat patients after that.
- One massage therapist confirmed that she had never treated, nor been paid for services provided to these patients even though the location submitted a total of 78 claims for these patients naming this provider (a total of \$4,210.00 was paid to the clinic).

Copies of the treatment records reviewed by GSC were provided with their letter to the College and formed part of the Agreed Statement of Facts.

The College retained an investigator to look into the matters raised by GSC. The investigator reviewed the documentation provided by GSC and interviewed Mr. Senko. In response to follow-up questions from the investigator, GSC advised the investigator that once GSC identified three false claims, GSC took steps to ensure no further claims from CCC were paid. Although the three claims had been paid, they were reversed. GSC confirmed that they would no longer reimburse claims for services rendered at CCC.

The investigator also spoke to two former employees of CCC, one of whom indicated that Mr. Senko was placing fraudulent claims with insurance companies.

In July of 2021 the College became aware that Mr. Senko had closed CCC. In August of 2021, Mr. Senko advised the College that he was in the process of leaving the country with no plans to return to Alberta and no plans to return to practicing as a chiropractor in Alberta.

Mr. Senko admitted as a fact that on or about the period between January 1, 2016, and June 30, 2020, he had failed to maintain appropriate patient health records as described in the Complaint Letter and the Investigation Report.

Mr. Senko further admitted as a fact that on or about the period between January 1, 2016, and June 30, 2020, he engaged in inappropriate billing practices as described in the Complaint Letter and the Investigation Report.

Mr. Senko signed an Admission of Unprofessional Conduct admitting and acknowledging that he had engaged in the conduct alleged in the Notice of Hearing in allegations #1 and #2 and that such conduct was unprofessional conduct pursuant to the HPA.

In particular, Mr. Senko admitted that during the period set out in the Notice of Hearing:

- He had failed to maintain appropriate patient health records which constitutes unprofessional conduct pursuant to s. 1(1)(pp) of the HPA including a breach of Standard of Practice 5.1 – Record Keeping Requirements.
- He had engaged in inappropriate billing practices which constitutes unprofessional conduct pursuant to s. 1(1)(pp) of the HPA including a breach of:

- Standard of Practice 2.0 – Financial Accountability
- Standard of Practice 2.3 – Prepayment of Fees
- Standard of Practice 2.5 – Billing Practices
- Article B 6 of the CCOA Code of Ethics- Fees and Compensation for Service
- Principle 5 of the CCOA Code of Ethics – Veracity
- Article C1 of the CCOA Code of Ethics- Support of Self-Regulation of the Profession
- Article C6 of the CCOA Code of Ethics- Intra-Professional Behaviour
- Article D1 of the CCOA Code of Ethics – Recognition of Responsibilities to Profession,

and had done so by:

- retaining unused portions of prepaid fee amounts and/or not returning these funds to patients;
- billing goods and services with names of persons other than the patient or patients who received the chiropractic services;
- billing for dates when no services were provided; and/or
- submitting claim forms with incorrect, missing and/or incomplete information.

6. Submissions

Mr. Maxston made submissions on behalf of the Complaints Director. He advised that in order for the Hearing Tribunal to find Mr. Senko guilty of the allegations in the Notice of Hearing, the Complaints Director has to prove (1) the facts in support of the allegations; and (2) that the conduct proved by the facts rises to the level of unprofessional conduct as that term is defined in s. 1(1)(pp) of the HPA. Mr. Maxston further advised that the onus is on the Complaints Director to prove both elements on a balance of probabilities.

It was Mr. Maxston's position on the part of the Complaints Director that the facts set out in the Agreed Statement of Facts and admitted by Mr. Senko were sufficient to prove the conduct engaged in by Mr. Senko on a balance of probabilities.

Mr. Maxston also submitted that the Complaints Director had established that the proven conduct rises to the level of unprofessional conduct because that conduct demonstrated a lack of judgment in the provision of professional services (s. 1(1)(pp)(i)) of the HPA) as well as contravention of various provisions of the College's Code of Ethics and Standards of Practice as referenced in the Agreed Statement of Facts. Furthermore, Mr. Maxston submitted that the nature of the conduct was clearly conduct that harms the integrity of the profession (s. 1(1)(pp)(xii) of the HPA).

Mr. Maxston then summarized the facts set out in the Agreed Statement of Facts and identified and explained how those facts proved deficiencies in Mr. Senko's charting and billing practices. He emphasized the importance of the acknowledgements and admissions set out in the Agreed Statement of Facts and Admission of Unprofessional Conduct in establishing both the conduct at issue and the unprofessional nature of the conduct. He noted that the admissions that had been made allowed him to keep his submissions brief and limit the length of the hearing. Mr. Maxston explained that the Hearing Tribunal should not take the brevity of his submissions as any indication that the conduct at issue was not serious insofar as the Complaints Director was concerned. He acknowledged Mr. Senko's cooperation in shortening the hearing process.

Mr. Senko indicated to the Hearing Tribunal that he had gone through and was continuing to go through some personal difficulties, but he acknowledged that this did not excuse what had occurred or make the conduct acceptable. He acknowledged that he had admitted the conduct and that it was unprofessional.

7. Findings and Reasons: Merits

After hearing the submissions, the Hearing Tribunal adjourned to deliberate on the merits portion of the hearing.

The Hearing Tribunal returned and advised the parties that it agreed that the facts that had been admitted by Mr. Senko establishes the two allegations against him and also agreed that the proven conduct in relation to both allegations rise to the level of unprofessional conduct as that term is defined in the HPA. On that basis the Hearing Tribunal accepted Mr. Senko's admission of unprofessional conduct.

In reaching this determination, the Hearing Tribunal considered the allegations and the relevant provisions in the HPA and Standards of Practice.

With respect to Allegation 1, the medical records that were appended to the Agreed Statement of Facts clearly demonstrated on their face that they were non-compliant with Standard of Practice 5.1. The records were not dated, accurate and comprehensible. They did not include basic information required by the Standard of Practice 5.1 and did not include proposed treatment methods or appropriate progress notes. Many of the SOAP entries were identical for every single visit by a particular patient.

Regarding Allegation 2, the admissions confirmed that Mr. Senko had not ensured that his billing practices were appropriate and ethical. He had retained unused portions of prepaid fee amounts in breach of Standard of Practice 2.3. He billed for people other than the person to whom services had been provided and for dates when no services had been provided contrary to Standard of Practice 2.5. As noted in that Standard of Practice, any action involving billing anomalies that results in a chiropractor's receipt of funds under false pretences is considered fraudulent and constitutes professional misconduct.

Mr. Senko's conduct also clearly breached the College's Code of Ethics. Mr. Senko was not truthful and forthright in his dealings with GSC and in doing so he failed to maintain professional behaviour and to reflect the high standards required of chiropractors in their professional activities. He failed to behave in a way that recognized chiropractors' obligations to the community at large.

Given the circumstances of this case, the Hearing Tribunal agreed with and had no difficulty accepting Mr. Senko's admission of unprofessional conduct.

8. Joint Submission Regarding Penalty

The Complaints Director and Mr. Senko made a Joint Submission Regarding Penalty (the "Joint Submission") which was marked at Exhibit 4. In the Joint Submission the parties proposed that the Hearing Tribunal impose the following orders:

1. Mr. Senko's registration and practice permit are permanently cancelled.
2. The Hearing Tribunal adopts Mr. Senko's solemn promise and permanent and irrevocable undertaking to the College that he will not at any time in the future:
 - (a) use the titles chiropractor, Doctor of Chiropractic or D.C. or in any way hold out to be, or make representation of being, a chiropractor;
 - (b) work or practice in the chiropractic profession in Alberta, whether as a paid or unpaid employee, a volunteer, a contractor or a student in a clinical or any other setting in Alberta at any time in the future;
 - (c) apply to be reinstated as a regulated member of the College and apply for a practice permit.
3. The Hearing Tribunal's decision (with Mr. Senko's name) shall be published (i) for a period of ten (10) years on the College's website and (ii) in the College's 2024 Annual Report.
4. Should the College become aware that Mr. Senko (i) is applying for registration and/or a practice permit (or equivalent) or (ii) has registration and/or a practice permit (or equivalent) as a chiropractor or equivalent with another chiropractic regulatory body in any other jurisdiction, the College may independently and in its sole discretion provide a copy of the Hearing Tribunal's decision to the regulatory body.

On behalf of the Complaints Director, Mr. Maxston outlined the types of orders that the Hearing Tribunal is authorized to make under section 82 of the HPA. He urged the Hearing Tribunal to accept the Joint Submission, which reflects what both the Complaints Director and Mr. Senko submit are fair and appropriate penalties in these circumstances.

Mr. Maxston referred the Hearing Tribunal to the decision of the Supreme Court of Canada in *R. v. Anthony-Cook*, 2016 SCC 43 which has been adopted in the administrative law context. He submitted that although the Hearing Tribunal has ultimate jurisdiction to make orders it considers appropriate, the case law is clear that a tribunal must give significant deference to a joint submission. Mr. Maxston explained that this is because a joint submission is the product of careful negotiation and is beneficial both to the regulatory body and to the member. Among other things, joint submissions avoid the need for a contested hearing. As such, a tribunal should not depart from a joint submission on sanction unless the proposed sanction would bring the administration into disrepute or otherwise be contrary to the public interest.

Mr. Maxston submitted that the fundamental purposes of sanctions in professional discipline cases are to protect the public and to maintain the integrity of the profession. He referred to the Joint Submission which sets out a list of factors that the Hearing Tribunal could consider in assessing the proposed sanctions. He emphasized several of the listed factors as being particularly relevant in this case.

Mr. Maxston submitted that there were a number of factors that called for a severe sanction in this case including the nature and gravity of the proven allegations, the frequency and length of time over which the pattern of conduct was demonstrated, and the need for specific and general deterrence of conduct of this nature with a view to the protection of the public. In this context he also emphasized the need to maintain the public's confidence in the integrity of the chiropractic profession and the degree to which the offensive conduct clearly fell outside of the range of permitted conduct.

In terms of mitigating factors, Mr. Maxston noted that Mr. Senko had accepted responsibility for his conduct and that he had facilitated the hearing process through the Agreed Statement of Facts, Admission and Undertaking and Joint Submission.

Mr. Maxston identified Mr. Senko's prior disciplinary history as a significant aggravating factor in terms of sanction. The Joint Submission included a previous decision of a Hearing Tribunal of the College and associated materials relating to similar conduct by Mr. Senko with respect to claims submitted to Alberta Blue Cross. That prior hearing also proceeded by way of an Agreed Statement of Facts and Admission of Unprofessional Conduct and resulted in a finding of unprofessional conduct in relation to 10 allegations. In that matter Mr. Senko was ordered to pay a \$10,000 fine and 75% of the costs of the investigation and hearing to a maximum of \$10,000. The Hearing Tribunal also ordered that Mr. Senko was to be audited twice every 12 months for a total of 4 audits. The decision was published. The Joint Submission also attached a letter of reprimand to Mr. Senko from the College for failing to disclose his conduct history in his renewal for the 2020-2021.

Mr. Maxston submitted that the sanctions proposed were fair and reasonable against this disciplinary background. He submitted that permanent cancellation of registration is the most severe sanction that can be imposed and that it was appropriate here given that the scrupulous conduct of a chiropractor in relation to their patient records and billing practices is central to the profession.

Mr. Maxston drew the attention of the Hearing Tribunal to the fact that the Complaints Director was not seeking costs in relation to the investigation or hearing. He advised that this was a significant concession by the Complaints Director but maintained that on balance the proposed sanctions and submissions on costs remained reasonable and appropriate.

Mr. Maxston urged the Hearing Tribunal to accept the proposed sanctions without change, as being fair, appropriate, reasonable and representing serious consequences for Mr. Senko's conduct.

Mr. Senko stated that the conduct at issue here occurred at the same time as the conduct dealt with in the prior hearing and speculated as to whether the outcome might have been different if the two matters had been dealt with together. However, he did not resile from the Joint Submission and did not suggest that the outcome of the hearing should be any different than proposed in that Joint Submission.

9. Decision on Penalty

The Hearing Tribunal deliberated on the Joint Submission and prior to closing the hearing the Chair informed the parties that the Hearing Tribunal accepted the Joint Submission Regarding Penalty and was prepared to impose the orders proposed by the parties.

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

1. Mr. Senko's registration and practice permit are permanently cancelled.
2. The Hearing Tribunal adopts Mr. Senko's solemn promise and permanent and irrevocable undertaking to the College that he will not at any time in the future:
 - (a) use the titles chiropractor, Doctor of Chiropractic or D.C. or in any way hold out to be, or make representation of being, a chiropractor;
 - (b) work or practice in the chiropractic profession in Alberta, whether as a paid or unpaid employee, a volunteer, a contractor or a student in a clinical or any other setting in Alberta at any time in the future;
 - (c) apply to be reinstated as a regulated member of the College and apply for a practice permit.
3. The Hearing Tribunal's decision (with Mr. Senko's name) shall be published (i) for a period of ten (10) years on the College's website and (ii) in the College's 2024 Annual Report.
4. Should the College become aware that Mr. Senko (i) is applying for registration and/or a practice permit (or equivalent) or (ii) has registration and/or a practice permit (or equivalent) as a chiropractor or equivalent with another chiropractic regulatory body in any other jurisdiction, the College may independently and in its sole discretion provide a copy of the Hearing Tribunal's decision to the regulatory body.

In reaching this decision, the Hearing Tribunal considered the Joint Submission and Mr. Maxston's oral submissions, including the criteria identified in the Joint Submission Regarding Penalty as being relevant when determining appropriate penalty orders. It also took into consideration the comments from Mr. Senko.

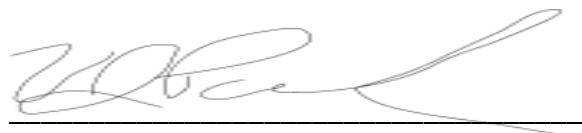
The Hearing Tribunal agrees that the factors identified in the Joint Submission are the relevant factors in this case. The nature and gravity of the conduct at issue are extremely serious. Honesty and integrity are at the core of every profession. Conduct like Mr. Senko's calls those fundamental hallmarks into question and brings shame to the chiropractic profession. The prior disciplinary proceeding relating to similar conduct was significant to the Hearing Tribunal regardless of whether the matters had been heard together or apart because it demonstrated a clear pattern of conduct over a lengthy period of time that could not be justified for any reason, and which cannot be condoned. The Hearing Tribunal considered it important in cases of this nature to send a strong message to the public and to the profession that this type of behaviour is not acceptable and will result in a significant sanction.

The Hearing Tribunal might have been inclined to consider a fine in addition to the permanent cancellation of Mr. Senko's registration but is aware that the Joint Submission is the result of careful negotiations between the parties and should be given deference unless the Joint Submission is contrary to the public interest. The Hearing Tribunal is satisfied that the fact that Mr. Senko can no longer practice as a member of the chiropractic profession in Alberta or in conjunction with a chiropractic clinic serves to protect the public interest and that goal is not undermined by the absence of a fine.

The Hearing Tribunal is satisfied that the orders that it has imposed achieve the goal of public protection and protection of the reputation of the profession.

DATED THIS 7th DAY OF NOVEMBER 2024 IN THE CITY OF EDMONTON, ALBERTA.

COLLEGE OF CHIROPRACTORS OF ALBERTA

A handwritten signature in black ink, appearing to read 'V. Paniak', written over a horizontal line.

Vince Paniak
Chair, Hearing Tribunal