



— COLLEGE OF —
CHIROPRACTORS
— OF ALBERTA —

Hearing Tribunal Written Decision and Orders for the Hearing of:

Dr. Giancarlo Carpino

On:

March 20, 2024

Posting expiration date:

March 20, 2034

IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL
Into the Conduct of Dr. Giancarlo Carpino, a 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 February 13, 2024. The following individuals were present:

Vince Paniak, Public Member (Chair)
Emeka Ezike-Dennis, Public Member
Dr. Allan MacDonald, Regulated Member
Dr. Mike Stewart, Regulated Member
Kimberly Precht, Independent Legal Counsel

Ms. Kerstin Hurd, Complaints Director
Blair Maxston, KC, Legal Counsel for the Complaints Director

Dr. Giancarlo Carpino, Investigated Person
Roxanne Davis, 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, nor to the virtual format of the hearing. There was no request for a non-public hearing. There were no other preliminary matters raised by either party.

3. Allegation

The Notice of Hearing, Notice to Attend and Notice to Produce (the “Notice of Hearing”) included two allegations which are reproduced below:

1. On or about October and November of 2021, Dr. Carpino provided interventions and related services to youth athletes at [REDACTED] (“[REDACTED]”) without appropriate patient and parental consent.
2. On or about October and November of 2021, Dr. Carpino failed to maintain appropriate clinical records in relation to the interventions provided to youth athletes at [REDACTED].

The Notice of Hearing was entered as Exhibit 1.

4. Background

On March 11, 2022, the Complaints Director (the “Complaints Director”) of the College received a complaint from the mother of a youth athlete who received services from Dr. Carpino at the [REDACTED] in Calgary, Alberta (“[REDACTED]”). The complaint raised concerns about patient consent, release of patient information, and inaccurate billing for chiropractic treatment provided by Dr. Carpino.

The Complaints Director determined that an investigation of the Complaint should be commenced pursuant to section 55(2)(d) of the HPA. The investigation was completed and this matter was referred by the Complaints Director to a hearing pursuant to Part 4 of the HPA.

5. Evidence and Admission of Unprofessional Conduct

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

Pursuant to the Agreed Statement of Facts, it was agreed that Dr. Carpino was at all material times a regulated member of the College.

The agreed facts set out that [REDACTED] operated a [REDACTED] training facility and had contracted with an entity called “[REDACTED]” to provide a “[REDACTED]” (“[REDACTED]”) to youth athletes training at [REDACTED]. The [REDACTED] involved applying interventions in the athlete’s environment to proactively prevent injuries. It did not mention a chiropractor or, specifically, Dr. Carpino as a service provider. However, Dr. Carpino did apply interventions to youth athletes at [REDACTED] pursuant to the [REDACTED].

Dr. Carpino entered a service agreement with [REDACTED] between February 15, 2021, and June 2021, after which Dr. Carpino entered an informal arrangement whereby [REDACTED] paid Dr. Carpino a flat rate for his time in providing [REDACTED] services. In turn, [REDACTED] issued invoices to the parents of youth athletes for Dr. Carpino’s services and told the parents they could submit their receipts to their insurance companies for reimbursement. In the Agreed Statement of Facts, Dr. Carpino claimed he was not aware that parents were being told they could submit these receipts, which listed him as the service provider, to insurance companies for reimbursement under chiropractic services.

The agreed facts specifically relating to the allegations against Dr. Carpino read as follows:

1. On or about October and November of 2021 Dr. Carpino acknowledges that he inadvertently exceeded the scope of the [REDACTED] and provided interventions to youth

athletes at [REDACTED] pursuant to the [REDACTED] without appropriate athlete and parental consent or in adherence with clinical standards applicable to the chiropractic profession.

2. At certain times, there were no consent to treatment document signed by certain youth athletes or their parents in relation to the interventions provided by Dr. Carpino.
3. [REDACTED] inaccurately and inappropriately billed for chiropractic treatment, which Dr. Carpino reports he was not aware of at the time.
4. Dr. Carpino acknowledges that, at certain times, the receipts and billing records, which listed him as the service provider, contained errors regarding the dates of intervention provided and mentioned intervention that was not provided.
5. Upon learning of [REDACTED] unauthorized billings, Dr. Carpino, of his own volition, terminated the [REDACTED] arrangement effective April 15, 2022, and ceased to provide any services for [REDACTED]

In the Admission of Unprofessional Conduct, Dr. Carpino admitted he is guilty of unprofessional conduct with respect to the allegations set out in the Notice of Hearing.

6. Submissions

Mr. Maxston made submissions on behalf of the Complaints Director. He advised that there are two onuses on the Complaints Director. The first onus on the Complaints Director is to prove the facts in support of the allegations, applying a “balance of probabilities” as the standard of proof. He advised that in light of the Agreed Statement of Facts, the Complaints Director’s onus to prove the facts on a balance of probabilities was satisfied.

Mr. Maxston advised that the second onus on the Complaints Director is to prove that the proven factual conduct rises to the level of unprofessional conduct. He referred the Hearing Tribunal to the definition of “unprofessional conduct” in s. 1(1)(pp) of the HPA, which includes conduct that breaches the Act, the Code of Ethics or Standards of Practice, and conduct that harms the integrity of the profession. Mr. Maxston specifically referred the Hearing Tribunal to Standard of Practice 3.1, which relates to the issue of consent and is relevant to Allegation #1, and Standard of Practice 5.1, which relates to record-keeping and is relevant to Allegation #2. Mr. Maxston explained that the HPA and the Standards of Practice are the “tools” the Hearing Tribunal can use to measure Dr. Carpino’s conduct and determine whether it amounts to unprofessional conduct.

Mr. Maxston then summarized the facts set out in the Agreed Statement of Facts and emphasized the importance of the acknowledgements and admissions set out of the Admission of Unprofessional Conduct, which allowed the hearing to proceed quickly. Mr. Maxston urged the Hearing Tribunal not to confuse the brevity of the Agreed Statement of Facts or his submissions with a lack of seriousness on behalf of the Complaints Director.

Ms. Davis confirmed she did not intend to make any submissions on behalf of Dr. Carpino at the merits stage of the hearing.

7. Findings and Reasons

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

The Hearing Tribunal then advised the parties that it accepted Dr. Carpino's admission of unprofessional conduct based on the evidence set out in the Agreed Statement of Facts. Further, the Hearing Tribunal advised that it agreed that the conduct established by the Agreed Statement of Facts rises to the level of unprofessional conduct as defined in s. 1(1)(pp) of the HPA in relation to each of the allegations.

In reaching this determination, the Hearing Tribunal carefully considered each of the allegations set out in the Notice of Hearing and the relevant provisions in the HPA and the Standards of Practice.

Regarding Allegation #1, the requirement for chiropractors to obtain informed consent, in writing, is clearly set out in Standard of Practice 3.1. As stated in the Standard of Practice, informed consent provides the vehicle for chiropractors to discuss with their patients (and, in this case, the parents of patients) information about the benefits, risk and side effects of chiropractic treatment. This remains important regardless of how services are provided. Dr. Carpino's provision of interventions and related services to youth athletes at [REDACTED] without appropriate patient and parental consent breaches Standard of Practice 3.1 and clearly amounts to unprofessional conduct.

As for Allegation #2, record keeping requirements are set out in Standard of Practice 5.1, which requires that patient health records must be dated, accurate, legible, and comprehensible. These requirements apply whether a chiropractor provides services in a clinic or in a less conventional setting such as a [REDACTED] training centre. Dr. Carpino's failure to maintain appropriate clinical records in relation to the interventions provided to youth athletes at [REDACTED] breaches Standard of Practice 5.1 and amounts to unprofessional conduct.

In the circumstances, the Hearing Tribunal had no difficulty accepting Dr. Carpino's admission and concluding that the proven factual conduct constituted unprofessional conduct.

8. Joint Submission Regarding Penalty

The Complaints Director and Dr. Carpino made a Joint Submission Regarding Penalty (Exhibit 4), in which they proposed that the Hearing Tribunal impose the following orders:

1. Dr. Carpino shall be reprimanded for his unprofessional conduct. The Hearing Tribunal's written decision will constitute the reprimand.

2. Within six (6) months of the date of the Hearing Tribunal hearing, Dr. Carpino must successfully complete the condensed “Medical Ethics and Professionalism / ME-15 / PBI / Education” course (the “Course”) and must provide evidence of successful completion to the Complaints Director on or before that date. The cost of the Course would be Dr. Carpino’s responsibility. As well, the Course will not count towards Dr. Carpino’s continuing education requirements with the College.
3. Dr. Carpino must pay a global fine of \$3,000.00. The Complaints Director may agree to payment of the fine within six (6) months of the date of the Hearing Tribunal hearing, provided that if payment in full is missed by the end of that time period, then Dr. Carpino’s practice permit shall be automatically suspended and cannot be reinstated until the entire remaining balance of the fine is paid.
4. Pursuant to the requirements of the College’s Bylaws, the Hearing Tribunal’s written decision will be published on the College website with Dr. Carpino’s name for a period of 10 years.

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 and urged the Hearing Tribunal to accept the parties’ joint submission, which reflects what both the Complaints Director and Dr. Carpino submit are fair and appropriate penalties in these circumstances.

Mr. Maxston submitted that while 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 joint submissions are the product of careful negotiation and are 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. Mr. Maxston took the Hearing Tribunal through the Joint Submission Regarding Penalty, which also outlined criteria identified by courts as relevant considerations on sanction. In particular, Mr. Maxston noted this is the first time Dr. Carpino has faced disciplinary proceedings, and that his attitude since the unprofessional conduct occurred is a mitigating factor because he genuinely recognizes his conduct was wrong.

Mr. Maxston urged the Hearing Tribunal to accept the proposed penalties without change, as fair, appropriate, reasonable, and serious consequences for Dr. Carpino’s conduct.

On behalf of Dr. Carpino, Ms. Davis also requested that the Hearing Tribunal adopt the Joint Submission on Penalty, which Ms. Davis submitted appropriately balance the factors the Hearing Tribunal is required to consider. The proposed sanctions are consistent with the Hearing Tribunal’s overarching mandate to ensure the protection of the public. Ms. Davis highlighted some additional mitigating factors, beyond what Mr. Maxston had referenced, noting that as

soon as Dr. Carpino learned of unauthorized billings, he terminated his involvement with the [REDACTED] and [REDACTED]. Ms. Davis noted that in addition to cooperating with the Complaints Director with respect to the hearing, Dr. Carpino has already spent significant time reviewing relevant standards, and has acknowledged the importance of obtaining informed consent, particularly when working with minors.

Dr. Carpino also spoke on his own behalf. He indicated that since the complaint was made two years ago, he has taken many steps to remediate the situation. This has included coursework to improve his own knowledge, including the course proposed as part of the Joint Submission on Penalty, along with advocacy aimed at helping others avoid falling into a similar situation.

9. Decision on Penalty

Before adjourning the hearing, the Chair informed the parties that the Hearing Tribunal accepted the Joint Submission Regarding Penalty and would impose the orders proposed by the parties.

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

1. Dr. Carpino is hereby reprimanded for his unprofessional conduct. The Hearing Tribunal's written decision constitutes the reprimand.
2. Within six (6) months of the date of the Hearing Tribunal hearing, Dr. Carpino must successfully complete the condensed "Medical Ethics and Professionalism / ME-15 / PBI / Education" course (the "Course") and must provide evidence of successful completion to the Complaints Director on or before that date. The cost of the Course are Dr. Carpino's responsibility, and the Course will not count towards Dr. Carpino's continuing education requirements with the College.
3. Dr. Carpino must pay a global fine of \$3,000.00 within six (6) months of the date of the Hearing Tribunal hearing. If payment in full is not made by August 13, 2024, then Dr. Carpino's practice permit shall be automatically suspended and shall not be reinstated until the entire remaining balance of the fine is paid.
4. Pursuant to the requirements of the College's Bylaws, the Hearing Tribunal's written decision shall be published on the College website with Dr. Carpino's name for a period of 10 years.

In reaching this decision, the Hearing Tribunal considered the parties' submissions, including the criteria identified in the Joint Submission Regarding Penalty as being relevant when determining appropriate penalty orders.

The Hearing Tribunal appreciated Dr. Carpino's contrition and cooperation, and his rehabilitative efforts to date. It was evident to the Hearing Tribunal that this process has had educational value for Dr. Carpino, and that this decision may be an educational tool to help other members of the profession avoid similar mistakes. As such, the Hearing Tribunal is satisfied that the orders jointly

proposed achieve the goal of public protection and will deter other members of the profession from making the type of mistake that Dr. Carpino made.

DATED THIS 20th DAY OF MARCH IN THE CITY OF EDMONTON, ALBERTA.

COLLEGE OF CHIROPRACTORS OF ALBERTA

Vince Paniak
Chair, Hearing Tribunal
CCOA

cc. Hearing Tribunal members