

Alberta Dental Association and College Hearing Tribunal Decision November 30, 2015

IN ACCORDANCE WITH BYLAW 19(7) OF THE ALBERTA DENTAL ASSOCIATION AND COLLEGE

On November 30, 2015, a Hearing Tribunal of the Alberta Dental Association and College found Dr. Nathaniel Podilsky guilty of unprofessional conduct and he was sanctioned. This is the Second Hearing about Dr. Podilsky's conduct that arose, in part, because he did not comply with the Orders from the First Hearing.

Dr. Podilsky admitted he was guilty of unprofessional conduct because:

1. He used or was included in advertising or promotional activities that failed to comply with Orders of a Hearing Tribunal dated July 20, 2010 or October 4, 2010 and specifically:
 - a. He continued to include references to an advanced education that he did not earn including a master's degree, a degree in full-mouth reconstruction, that he was a graduate of the "Advanced Anterior Program, Masters Program, Occlusion I and Occlusion II Programs" and a "graduate of the Las Vegas Institute of Cosmetic Dentistry".
 - b. He continued to include references to membership or accreditation by the American Academy of Cosmetic Dentistry, the Las Vegas Institute of Cosmetic Dentistry and the American Academy of Implant Dentistry.
 - c. He continued to refer to his membership or accreditation in the American Academy of Cosmetic Dentistry together with a reference to himself as a cosmetic dentist.
 - d. He continued to make claims that his procedures or technology are "revolutionary," "state-of-the-art," "advanced," and "leading edge."
2. Between October 4, 2010 and September 19, 2014 he used or was included in advertising or promotional activities that failed to comply with one or more of sections 102 and 128 of the *Health Professions Act*, and Articles B4(b), (c), (d), (e), B4.2, B4.4 and B4.6, and including but not limited to:
 - a. Using the Trade Name "Edmonton City Centre of Cosmetic and Implant Dentistry".
 - b. Referring to his dental practice as a "centre" for cosmetic and restorative dentistry in Edmonton.
 - c. Referring to numerous awards for business and consumer excellence.

The Hearing Tribunal concluded that Dr. Podilsky's conduct was very serious. It was clear that Dr. Podilsky breached the Orders of the Hearing Tribunal in the First Hearing and that there was a breach of an undertaking given by Dr. Podilsky to the previous Hearing Tribunal.

Dr. Podilsky acknowledged that he benefits from advertising his dental practice. He acknowledged that he was personally responsible and required to comply with the Hearing Tribunal's Orders (from the First Hearing). Dr. Podilsky engaged the same marketing company to create and rectify his advertising in response to the Orders from the First Hearing.

The First Hearing

Dr. Podilsky admitted that he did not comply with all of the Orders from the First Hearing. Dr. Podilsky's conduct was the subject of this First Hearing.

The First Hearing was held on June 16 and 21, 2010. On July 20, 2010, the Hearing Tribunal found Dr. Podilsky to have committed unprofessional conduct and made eight (8) findings of unprofessional conduct. On October 4, 2010, the Hearing Tribunal, as part of this same hearing sanctioned Dr. Podilsky and these orders included that:

Dr. Podilsky will stop using the trade name Edmonton Centre of Aesthetic and Implant Dentistry within 60 days;

Dr. Podilsky will stop using the trade name Edmonton Centre of Aesthetic Dentistry within 60 days;

Dr. Podilsky will stop using references in his advertising and promotional material as ordered by the Hearing Tribunal and that implies superiority.

The Second Hearing on November 30, 2015

As background, in March of 2014, the Complaints Director wrote to Dr. Podilsky to ensure compliance with the Orders from the First Hearing. In this letter, a number of statements and references were identified to Dr. Podilsky and that there was concern about compliance with the orders from the First Hearing which were in breach of the Code of Ethics. In April of 2014, Dr. Podilsky responded to this letter to indicate he had not reviewed his advertising for two years but he would be making changes as soon as he could. In June of 2014, Dr. Podilsky wrote again that he cannot always control what marketing people, especially web based companies, say about your practice or one's business. Dr. Podilsky explained that he had not been aware of some material posted to his website by his marketing company and he offered to make some changes to his advertising as "soon as is feasible for" his marketing company.

In September of 2014, the Complaints Director again reviewed Dr. Podilsky's advertising. After this review, she wrote to Dr. Podilsky to advise that he would be sent to a new hearing, the Second Hearing, to address his failure to comply.

Decision

Dr. Podilsky admitted his conduct was unprofessional conduct. Dr. Podilsky also agreed to the specific penalty against him. The agreement about penalty was presented to the Hearing Tribunal who accepted it. Upon acceptance by the Hearing Tribunal, and as required by the *Health Professions Act*, the Hearing Tribunal issued the following written orders:

- a. Dr. Podilsky will serve a two month suspension on or before December 31, 2016 and the dates must be approved in advance by the Complaints Director.
- b. Dr. Podilsky will complete the ADA+C Ethics Program, totaling 30 hours, on or before August 1, 2016. The Ethics Program will not count toward Dr. Podilsky's continuing education credits.

- c. For a period of five years, Dr. Podilsky must personally review and approve all public advertising or promotional activities for himself and his practice.
- d. Dr. Podilsky will bring all of his advertising and promotional material into compliance with the 2010 Orders of the Hearing Tribunal, the Code of Ethics and the *Health Professions Act* within thirty (30) days of the Hearing Tribunal's orders. The Complaints Director will then review Dr. Podilsky's documentation and his advertising and advise Dr. Podilsky of any outstanding concerns. Dr. Podilsky will then have 14 days to make any further necessary changes and to confirm and document those changes to the Complaints Director.
- e. Dr. Podilsky will pay the costs of the investigation and hearing of \$40,000.00.