

Notice to **DENTISTS**

In Accordance with Bylaw 20(7)

Decision of a Hearing Tribunal and an Appeal Panel of Council

BACKGROUND

In March of 2020, Dr. Byun appealed the decisions of the Hearing Tribunal and the Appeal Panel of Council to the Court of Appeal of Alberta. The Court of Appeal date has not been scheduled. This Notice will report on the decisions of the Hearing Tribunal and the Appeal Panel.

As part of a hearing, Dr. Hweejo Byun admitted to three charges of engaging in unprofessional conduct. The Hearing Tribunal of the Alberta Dental Association and College (the Hearing Tribunal) accepted Dr. Byun's admissions. The sanction part of the hearing was contested. After hearing argument, the Hearing Tribunal made a written decision. Dr. Byun was ordered to serve a six month suspension, pay costs of the investigation and hearing, and complete courses on recordkeeping, protective stabilization, and ethics.

Dr. Byun appealed the decision of the Hearing Tribunal to an Appeal Panel of Council of the Alberta Dental Association and College (the Appeal Panel). The Appeal Panel confirmed most of the decisions of the Hearing Tribunal and also ordered Dr. Byun to pay additional costs in relation to the appeal. The Appeal Panel modified the sanction ordered by the Hearing Tribunal.

DECISION OF THE HEARING TRIBUNAL

The complaint about Dr. Byun proceeded to a hearing in December of 2018 in front of a Hearing Tribunal. A Hearing Tribunal is comprised of one member of the public appointed by the Government of Alberta and three dentists. The Hearing Tribunal accepted an Agreed Statement of Facts and Admission of Unprofessional Conduct and made the following findings of unprofessional conduct:

1. Dr. Byun failed to obtain the informed consent of a parent or guardian to the planned treatment, immobilization or restraint of a minor patient, or to obtain informed consent to continue the treatment, immobilization or restraint of a minor patient, or both.
2. Dr. Byun failed to provide adequate or any supervision of staff engaged in the administration of one or more of the following:
 - a. The administration of oral sedation;
 - b. The administration of nitrous oxide;
 - c. The immobilization or restraint of a minor patient; and
 - d. The treatment of a minor patient while under sedation.
3. Dr. Byun failed to terminate a procedure involving the immobilization or restraint of a minor patient, in light of the severe emotional distress of the patient, and continued with the passive immobilization of the patient, including the application of excessive force through active immobilization techniques.

In their decision the Hearing Tribunal, ordered that Dr. Byun:

1. Serve a six month suspension;
2. Pay fines of \$10,000 for each admission of unprofessional conduct, for a total of \$30,000;
3. Complete courses on record keeping, protective stabilization, and ethics; and
4. Pay costs of the investigation and hearing.

DECISION OF THE APPEAL PANEL OF COUNCIL

Dr. Byun appealed the decision of the Hearing Tribunal to an Appeal Panel. An Appeal Panel is comprised of three dentists and a public member who sit on Council of the Alberta Dental Association and College. The Appeal Panel generally agreed with the decision of the Hearing Tribunal but not with the sanctions they had ordered against Dr. Byun.

Regarding the sanctions ordered by the Hearing Tribunal, the Appeal Panel decided that the six month suspension ordered by the Hearing Tribunal was unreasonable but the costs order was reasonable.

The Appeal Panel ordered that instead of the six month suspension, Dr. Byun would be required to serve a three month suspension commencing within 60 days of the date Dr. Byun receives the written decision. It also ordered that an additional three months of suspension would be held in abeyance for a period of three years provided that Dr. Byun met the following conditions:

- There are no further complaints regarding a failure to obtain informed consent of a parent or guardian to the planned treatment, immobilization or restraint of a minor patient or failure to obtain informed consent to continue the treatment, immobilization or restraint of a minor;
- There are no further complaints regarding a failure to provide adequate supervision of staff engaged in the administration of oral sedation or nitrous oxide, the immobilization or restraint of a minor patient, or the treatment of a minor patient while under sedation; and
- Dr. Byun completes the recordkeeping, protective stabilization and ethic courses ordered by the Hearing Tribunal within 6 months of receiving the Appeal Panel's written decision and provides evidence of successful completion of these courses to the Complaints Director within 12 months of receiving the Appeal Panel's written decision.

The Appeal Panel also ordered Dr. Byun pay 50 percent of the costs of the appeal.

As noted above, Dr. Byun has appealed these decisions to the Alberta Court of Appeal.

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