
Notice to DENTISTS

Alberta Dental Association and College Hearing Tribunal Decision Summary November 10, 2020

In Accordance with Bylaw 20(7) of the Alberta Dental Association and College

This decision is under appeal.

The Hearing Tribunal of the Alberta Dental Association and College found Dr. Nimet Jinnah guilty of unprofessional conduct in relation to a complaint. Dr. Jinnah was ordered to serve a one month suspension, pay costs of the hearing, and complete an ethics course.

Dr. Jinnah appealed the decision of the Hearing Tribunal to an Appeal Panel of Council of the Alberta Dental Association and College. The Appeal Panel confirmed the majority of the decision of the Hearing Tribunal and ordered Dr. Jinnah to pay 25% of the costs in relation to the appeal.

The Appeal Panel modified the sanctions ordered by the Hearing Tribunal. On December 8, 2020, Dr. Jinnah appealed the decisions of the Hearing Tribunal and Appeal Panel of Council to the Court of Appeal of Alberta.

The appeal to the Court of Appeal has not taken place. This Notice will report on the decisions of the Hearing Tribunal and the Appeal Panel of Council. There will be publication of a summary of the decision of the Alberta Court of Appeal.

DECISION OF THE HEARING TRIBUNAL

The Hearing Tribunal found Dr. Jinnah guilty of unprofessional conduct in relation to a complaint regarding the billing and collection practices at her clinic. The Hearing Tribunal was comprised of one member of the public appointed by the Government of Alberta and three dentists.

The Hearing Tribunal concluded that Dr. Jinnah had engaged in unprofessional conduct because she:

1. Failed to provide clear and transparent information regarding billing and/or collection of fees owing.
2. Engaged in inappropriate collection practices.
3. Did not use usual and customary business practices to collect payment owing by the patient.

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

1. Serve a one month suspension.
2. Complete an ethics course.
3. Pay \$50,000 of the costs of investigation and hearing.

DECISION OF THE APPEAL PANEL OF COUNCIL

Dr. Jinnah appealed the decision of the Hearing Tribunal to an Appeal Panel. An Appeal Panel is comprised of three dentists and one public member who sit on Council of the Alberta Dental Association and College. The Appeal Panel confirmed the majority of the Hearing Tribunal's finding decision and modified the sanctions to reflect their decision.

The Appeal Panel identified two situations in which the Hearing Tribunal had made errors in their findings decision, as follows:

1. By allowing evidence on section 347 of the *Criminal Code*. The Hearing Tribunal erred in deciding that the collection of costs was interest.
2. The Hearing Tribunal erred in not placing greater weight on the notes made by Dr. Jinnah's staff even though the notes did not contradict the patient's evidence or would have caused a dismissal of the allegations by the Hearing Tribunal.

The Appeal Panel found that the decision and the reasons given by the Hearing Tribunal were reasonable and that no grounds had been established to allow the appeal of the merits.

The Appeal Panel found that the order of the one month suspension was disproportionate and should be quashed and replaced by a reprimand regarding the unprofessional conduct found by the Hearing Tribunal and confirmed by the Appeal Panel.

The Appeal Panel upheld the order that Dr. Jinnah must complete an ethics course. Although the course will not deal with the specific details of the matter, it will provide a chance for learning and contemplation of the importance of ethics in all dealings with clients, including business and collection practices.

The Appeal Panel determined that the order of the Hearing Tribunal directing Dr. Jinnah to pay \$50,000 in costs should be varied by reducing the costs to be paid by 25% to \$37,500. This awards costs for the proof of the unprofessional conduct but reduces the costs to reflect the evidence on imputed interest and section 347 of the Criminal Code that was not necessary.

The Appeal Panel felt that as Dr. Jinnah was partially successful in her appeal, she should be directed to pay 25% of the costs of the appeal to the panel of council.