

**IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, being Chapter H-7
of the Revised Statutes of Alberta, 2000**

**AND IN THE MATTER OF an Investigation into a Complaint against
VOLODYMYR IRODENKO, a Former Regulated Member of
the College of Alberta Denturists**

**DECISION OF THE HEARING TRIBUNAL OF THE
COLLEGE OF ALBERTA DENTURISTS**

The hearing of the Hearing Tribunal was held on October 30, 2023 virtually via Zoom.

Present were:

The members of the Hearing Tribunal of the College of Alberta Denturists (the "College"):

Ms. Anita Warnick, Public Member and Chair
Mr. Marc Wagenseil, Member
Mr. Limson Seemon, Member
Mr. Glen Buick, Public Member

Ms. Andrea Snow, Complaints Director
Mr. Blair Maxton, K.C., Legal Counsel for the Complaints Director

Ms. Andrea Thorrougood, Hearings Director

Ms. Annabritt Chisholm, Independent Legal Counsel for the Hearing Tribunal

Ms. Jessica Young, Court Reporter

Opening of the Hearing

1. This hearing originally opened on April 24, 2023. It was adjourned at the request of the former regulated member, Mr. Irodenko. The Hearing Tribunal provided its reasons for accepting Mr. Irodenko's adjournment request in writing on April 25, 2023. Those reasons are not reproduced in this decision.
2. When the hearing reconvened on October 30, 2023, the Chair introduced all persons present for the record. The Hearing Tribunal confirmed that none of its members were aware of any biases or conflicts of interest that would impact their role on the Hearing Tribunal.
3. The Hearing Tribunal was advised that there were no objections to the members of the Hearing Tribunal and that no jurisdictional issues were being raised. The hearing was open to the public, but no members of the public were present.
4. The Hearing Tribunal noted that Mr. Irodenko was not present. Mr. Maxton advised that the Admission of Unprofessional Conduct to be entered as an Exhibit to the hearing included a statement of Mr. Irodenko's consent for the hearing to proceed by consent in his absence. Mr.

Maxton noted Mr. Irodenko's Admission of Unprofessional Conduct also confirmed he had no objections to the members of the Hearing Tribunal and no jurisdictional issues to raise.

5. Given Mr. Irodenko's consent, the Hearing Tribunal was satisfied Mr. Irodenko had notice of the hearing and it confirmed it would proceed in his absence under the authority given to it by section 79(6) of the HPA.

6. The Hearing Tribunal received a Notice of Hearing dated May 12, 2023 which was marked as Exhibit 1 to the Hearing.

Submissions of the Complaints Director

7. Mr. Maxton advised that the parties were submitting an Admission of Unprofessional Conduct, an Agreed Statement of Facts and a Joint Submission Regarding Penalties which he asked be marked as Exhibits 2, 3 and 4. He also provided the Hearing Tribunal with standards and the College's Code of Ethics as reference documents.

8. Mr. Maxton submitted that the consent documents were carefully negotiated by the Complaints Director and Mr. Irodenko. On behalf of the Complaints Director, he urged the Hearing Tribunal to accept all elements of the settlement.

9. Mr. Maxton noted that the Hearing Tribunal's role was to determine whether the allegations in the Notice of Hearing are factually proven and if so, whether they rise to a level of unprofessional conduct. He stated that the Complaints Director had the evidentiary onus to prove the charges.

10. Mr. Maxton reviewed the Agreed Statement of Facts and Mr. Irodenko's Admission of Unprofessional Conduct.

11. He indicated that Mr. Irodenko had been a registered dentist in Alberta between 2013 and November 17, 2021, when his practice permit and registration was cancelled as a result of noncompliance with a prior Hearing Tribunal order.

12. Mr. Maxton submitted that although Mr. Irodenko was no longer a regulated member of the College, the Hearing Tribunal has jurisdiction to hear complaints about a former member that were received less than two years after that person became a former member.

13. In this case, the Complaints Director received complaints about Mr. Irodenko from patient R.M. in January and April of 2021. This information was treated as a complaint and the Complaints Director commenced an investigation. When the investigation was concluded, the matter was referred to a hearing.

14. The Agreed Statement of Facts provided that:

- a. At all times, Mr. Irodenko was working as a dentist at "Adams Denture Clinic" in Ponoka, Alberta (the "Clinic"). He treated patient R.M. at the Clinic.

- b. On or about June to December of 2020, Mr. Irodenko inappropriately billed for a lower denture for patient R.M. that was never requested, manufactured or provided to patient R.M.
- c. On or about June to December of 2020, Mr. Irodenko inappropriately billed for lower gum conditioning for patient R.M. when such lower gum conditioning was never performed.
- d. On or about June 2020 to January 2021, Mr. Irodenko failed to communicate in a professional and/or timely manner with patient R.M. with respect to treatment planning, delivery of dentures and re-scheduling of appointments.
- e. On or about June to December of 2020, Mr. Irodenko manufactured a substandard upper denture for patient R.M.
- f. On or about July 2020, Mr. Irodenko billed for an upper denture and subsequently requested the denture back in December of 2020 and never followed up with R.M. to replace his denture, leaving R.M. to use a 17-year-old upper denture.
- g. On or about June 2020 to January 2021, Mr. Irodenko failed to keep proper patient records for patient R.M.
- h. On or about June 2020 to August 2021, Mr. Irodenko failed to cooperate with an investigator of the College appointed pursuant to Part 4 of the HPA (the "investigator"), specifically:
 - (i) Mr. Irodenko failed to respond and/or respond properly to requests from the investigator; and/or
 - (ii) Mr. Irodenko failed to disclose the patient chart regarding patient R.M.

15. The Admission of Unprofessional Conduct indicated that Mr. Irodenko admitted to all of the allegations in the Notice of Hearing dated May 12, 2023 and that his conduct amounted to unprofessional conduct as defined by the HPA under sections 1(1)(pp)(i), "displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services," (ii) "contravention of [the HPA], a code of ethics or standards of practice" and (xii) "conduct that harms the integrity of the regulated profession".

Decision of the Hearing Tribunal on the Issue of Unprofessional Conduct

16. The Hearing Tribunal adjourned to consider the parties' submissions and determine whether it found the allegations in the Notice of Hearing to be proven and to constitute unprofessional conduct.

17. When it returned, the Hearing Tribunal stated that it found all the allegations against Mr. Irodenko had been factually proven and rose to the level of unprofessional conduct.

18. The Hearing Tribunal then invited the Complaints Director to make submissions on sanctions.

The Joint Submission Regarding Penalties

19. A Joint Submission Regarding Penalties ("Joint Submission") was marked as Exhibit 4. It was signed by the Complaints Director and Mr. Irodenko. Mr. Irodenko's signature was witnessed by an individual that Mr. Maxton represented was Mr. Irodenko's former legal counsel.

20. The Joint Submission requested that the Hearing Tribunal make the following orders regarding penalties:

1. Mr. Irodenko shall be formally reprimanded for his unprofessional conduct. The Hearing Tribunal's written decision will constitute the reprimand;

2. Mr. Irodenko will pay a global fine of \$10,000 for finding of unprofessional conduct, resulting in a total fine of \$10,000;

3. A summary of the Hearing Tribunal's findings and penalties will be published on the College website with Mr. Irodenko's name.

21. The Joint Submission stated that both parties strongly urged the Hearing Tribunal to accept and adopt the proposed penalty orders.

22. It set out that the purposes of penalty orders for unprofessional conduct are to ensure:

- a. The public is protected;

- b. The integrity of the profession is maintained in the eyes of the public; and

- c. The member is rehabilitated.

23. The Joint Submission also included a number of factors that the Hearing Tribunal may consider to assist it in determining appropriate penalty orders.

24. The Joint Submission further included that if it was accepted by the Hearing Tribunal then the parties agree that there shall be no right to appeal the Hearing Tribunal's findings or penalty decisions.

25. Finally, the Joint Submission included the following reasons as to why the proposed penalties were appropriate:

- a. Mr. Irodenko's conduct represented a breach of the recognized and accepted technical and ethical standards for the denturist profession in the Province of Alberta.

- b. Previous Hearing Tribunals of the College have found that Mr. Irodenko committed unprofessional conduct and issued penalty orders.

- c. Mr. Irodenko has admitted his unprofessional conduct, all of which demonstrates acceptance of responsibility for his actions.

Submissions of the Complaints Director

26. In submissions to the Hearing Tribunal Mr. Maxton reviewed the Hearing Tribunal's authority to issue penalty orders under section 82 of the HPA.
27. Mr. Maxton submitted that the law has developed a set of principles around joint submissions on sanctions, which requires Hearing Tribunals to defer to joint submissions of the parties unless the Tribunal is satisfied that the submissions are unfit or contrary to the public interest. He requested that if the Hearing Tribunal had any concerns regarding the proposed sanctions, it should bring its concerns to the parties and allow them an opportunity to address them.
28. Mr. Maxton reviewed the penalties proposed by the Complaints Director and Mr. Irodenko in the Joint Submission and provided several reasons to why the Hearing Tribunal should find the proposed penalties acceptable.
29. He cited and applied several factors from case law that were relevant to this hearing:
- *Nature and gravity of the proven allegations* – Mr. Irodenko's charges amount to very serious unprofessional conduct.
 - *Previous character* – Mr. Irodenko has a discipline history with the College, including cancellation of his practice permit and registration, which he may not reapply for until November 2026. His disciplinary history is an aggravating factor.
 - *Role of the member in acknowledging what occurred* – Although Mr. Irodenko initially failed to cooperate with the College's investigator, his full admission to his unprofessional conduct shows an acceptance of responsibility. This is a mitigating factor.
 - *Public confidence in integrity of the profession* – While the penalties are proportional to the misconduct, they amount to serious and significant consequences. Combined with the publication of the Hearing Tribunal's decision, they achieve the remedy of maintaining the integrity of the profession.
30. In conclusion, Mr. Maxton submitted that both parties entered into the Joint Submission believing the proposed penalties were fair, reasonable and proportionate. The proposed orders represent significant consequences for Mr. Irodenko for serious unprofessional conduct. They also achieve the remedies of protecting the public and maintaining the integrity of the profession. The order for publication would be punitive and demonstrate to the profession and the public accountability about an individual's actions.

Decision of the Hearing Tribunal on the Joint Submission on Penalty

31. The Hearing Tribunal adjourned to consider the Joint Submission. When it returned, it advised that it would accept the Joint Submission and make the proposed orders.

Reasons of the Hearing Tribunal

Findings of Unprofessional Conduct

32. The Hearing Tribunal considered the Admission of Unprofessional Conduct made by Mr. Irodenko and the agreed facts set out at paragraphs 8-14 of the Agreed Statement of Facts (Exhibit 3).

33. The Hearing Tribunal also considered the background facts included in paragraphs 3 to 7 of the Agreed Statement of Facts and the Standards of Practice provided to the Tribunal for reference purposes.

Allegations 1 and 2

34. Allegations 1 and 2 concern Mr. Irodenko's conduct in billing for services that were never performed for patient R.M..

35. The Hearing Tribunal finds these allegations are proven based on Mr. Irodenko's Admission of Unprofessional Conduct and Agreed Statement of Facts.

36. The Hearing Tribunal also finds this conduct rises to a level of unprofessional conduct under sections 1(1)(pp)(i), (ii) and (xii) of the HPA.

37. Regulated members must accurately bill patients.

38. The College's Code of Ethics requires members to:

2. Ensure that the member's conduct is professional and that they will not take physical, emotional or financial advantage of their patients;
7. Uphold the honour and dignity of the profession by maintaining integrity and ethical behavior; and
10. Charge fair and reasonable fees to patients which are reflective of the treatment(s) provided, and with the consideration of the College of Alberta Denturists Recommended Schedule of Professional Fees.

39. In billing for services not received, Mr. Irodenko failed to uphold these ethical expectations in respect to patient R.M. He also harmed the integrity of the profession in the eyes of the public.

Allegation 3

40. Allegation 3 concerned Mr. Irodenko's failure to communicate in a professional and/or timely manner with patient R.M. with respect to treatment planning, delivery of dentures and rescheduling of appointments.

41. It is fundamental that regulated members understand how to communicate with patients in a professional manner. The Hearing Tribunal notes that the Standard: Professionalism and Altruism requires a member to "communicate clearly and honestly with colleagues and patients."

42. Based on Mr. Irodenko's Admission of Unprofessional Conduct and the Agreed Statement of Facts, the Hearing Tribunal finds Allegation 3 is proven on a balance of probabilities and constitutes unprofessional conduct as defined in sections 1(1)(pp)(i), (ii) and (xii) of the HPA.

Allegation 4 and 5

43. Allegations 4 and 5 pertain to Mr. Irodenko's failure to meet expected standards of the profession with respect to patient care.

44. The Hearing Tribunal notes that Standard: Competency and Application of Knowledge requires a member to "provide a suitable standard of care based on available up-to-date information and best practices in the profession of denturism."

45. The College's Code of Ethics requires members to "practice the profession competently and without impairment."

46. Manufacturing a substandard upper denture and then leaving a patient with a 17-year old denture is not acceptable conduct of a regulated denturist.

47. Based on the Admission of Unprofessional Conduct and Agreed Statement of Facts, the Hearing Tribunal finds these allegations to be proven and to constitute unprofessional conduct as defined in sections 1(1)(pp)(i), (ii) and (xii) of the HPA.

Allegation 6

48. Allegation 6 relates to Mr. Irodenko's failure to keep proper patient records for patient R.M. between about June to January of 2021.

49. The Hearing Tribunal notes that Standard: Accountability requires a member to "make and keep accurate and complete patient records by following the requirements contained in the current College of Alberta Denturists *Record Keeping Standards* document."

50. The Hearing Tribunal also referred to the College's Code of Ethics, in which Article 22 requires regulated members to "keep accurate records of all clinical findings, diagnosis, treatments, prognosis and referrals."

51. Accurate record keeping protects the public and the members of the profession.

52. Based on Mr. Irodenko's Admission of Unprofessional Conduct and the Agreed Statement of Facts, the Hearing Tribunal finds Allegation 6 is proven and constitutes unprofessional conduct as defined in sections 1(1)(pp)(i),(ii) and (xii) of the HPA.

Allegation 7

53. The Hearing Tribunal notes that Standard: Accountability requires a member to "abide by all current legislation and regulations applicable to the profession of denturism in Alberta," and to "accept responsibility for [their] actions and those of all persons within [their] practice."

54. Mr. Irodenko did not abide by this standard when he failed to cooperate with the College's investigator as set out in Allegation 7.

55. The Hearing Tribunal also finds that the conduct in Allegation 7 breached the College's Code of Ethics by failing to:

- 28. Recognize and understand that it is a privilege not a right to have self-regulation of the profession, and that every Denturist has the ongoing responsibility to warrant such a privilege; and
- 29. Recognize and abide by the authority provided to the Regulatory Body, the College of Alberta Denturists.

56. Based on Mr. Irodenko's Admission of Unprofessional Conduct and the Agreed Statement of Facts, the Hearing Tribunal finds Allegation 7 is proven and constitutes unprofessional conduct under sections 1(1)(pp)(i),(ii) and (xii) of the HPA.

Reasons for Accepting the Joint Submission

57. The Hearing Tribunal has the authority under section 82 of the HPA to order penalties after making findings of unprofessional conduct. The Hearing Tribunal finds that the proposed orders in the Joint Submission fall within the authority given to it under section 82 of the HPA.

58. The Hearing Tribunal accepts that it has a duty to give careful consideration to a joint submission on penalty made by a member and the Complaints Director. The Hearing Tribunal considered the Agreed Statement of Facts and Admission of Unprofessional Conduct, the Joint Submission and the oral submissions made by legal counsel for the Complaints Director.

59. The Hearing Tribunal considered the seriousness of the conduct, Mr. Irodenko's disciplinary history with the College, the need to maintain public confidence in the integrity of the profession and Mr. Irodenko's cooperation in the process.

60. The Hearing Tribunal finds the proposed sanctions are reasonable having regard to the evidence presented in this case and based on the admitted conduct. The Hearing Tribunal is satisfied that the proposed sanctions are not contrary to the public interest.

61. The Hearing Tribunal is satisfied that Mr. Irodenko should receive a reprimand for his conduct in the form of this written decision, which will be published on the College's website with his name. It is incumbent on members of the profession to know and follow the Standards of Practice and uphold the Code of Ethics. Otherwise, the integrity of the profession is harmed.

62. As Mr. Irodenko's unprofessional conduct was not only serious, but of a pecuniary character, the Hearing Tribunal finds it appropriate to order Mr. Irodenko to pay a fine global fine of \$10,000 for all of the proven Allegations.

63. The Hearing Tribunal may have considered the need for a suspension order if Mr. Irodenko was still in practice, but given that he has not held a practice permit for over two years, it considers that the public is protected from similar conduct in the future.

64. As a result, the Hearing Tribunal is satisfied the Joint Submission meets the public interest test. It will make the requested orders.

65. The Hearing Tribunal considered the parties' notation that if the Joint Submission was accepted the parties would give up their right to appeal this matter to the Council. The Hearing Tribunal accepts that this agreement was negotiated in good faith and expressed the intention of both parties at the time of signing.

Conclusion

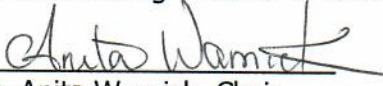
66. For the reasons set out above, the Hearing Tribunal finds that the seven allegations of unprofessional conduct against Mr. Irodenko have been proven on a balance of probabilities and constitute unprofessional conduct as defined by sections 1(1)(pp)(ii) and (xii) of the HPA.

67. The Hearing Tribunal makes the following orders under section 82 of the HPA:

1. Mr. Irodenko shall be formally reprimanded for his unprofessional conduct. The Hearing Tribunal's written decision will constitute the reprimand.
2. Mr. Irodenko will pay a global fine of \$10,000.00 to the College for finding of unprofessional conduct, resulting in a total fine of \$10,000.
3. A summary of the Hearing Tribunal's findings and penalties will be published on the College website with Mr. Irodenko's name.

Dated January 4, 2024

For the Hearing Tribunal of the College of Alberta Denturists


Ms. Anita Warnick, Chair