

College of Dental Surgeons of Alberta

Appeal Panel of Council Decision

May 31, 2023

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

On May 31, 2023, a panel of Council (the "Appeal Panel") issued a further decision in a hearing involving Dr. Nimet Jinnah ("Dr. Jinnah"). Dr. Jinnah appealed findings of unprofessional conduct and sanction against her to the Alberta Court of Appeal. In *Jinnah v Alberta Dental Association and College, 2022 ABCA 336*, the Alberta Court of Appeal upheld a finding that Dr. Jinnah had obstructed the complaint process. However, the Court allowed Dr. Jinnah's appeal on the Hearing Tribunal and Appeal Panel's findings that Dr. Jinnah failed to provide clear and transparent information regarding billing and/or collection of fees owing, engaged in inappropriate collection practices, and failed to engage in usual and customary business practices to collect payment owing by the patient. The Court overturned the order that Dr. Jinnah take an ethics course and directed the Appeal Panel to revise the reprimand given to Dr. Jinnah in light of the Court of Appeal's direction and to reconsider the issue of costs awarded against Dr. Jinnah.

The Appeal Panel reiterated the Court of Appeal's findings that Dr. Jinnah had obstructed the complaint process in her email to a patient in which Dr. Jinnah threatened an action in defamation against the patient for making a complaint to the CDSA. A dentist whose conduct assessed objectively discourages a patient from making a complaint to the CDSA or pursuing an existing complaint is conduct that harms the integrity of the profession and therefore constitutes unprofessional conduct. The Court of Appeal further approved of the prior decision of the Appeal Panel to impose a reprimand on Dr. Jinnah as a sanction for this finding of unprofessional conduct. The Appeal Panel issued a revised reprimand to reflect the Court of Appeal's decision.

With respect to costs, the Appeal Panel considered the Court of Appeal's directions and found that no award of costs was appropriate in the present case.

ORDERS OF COUNCIL

In accordance with the directions of the Court of Appeal, the Appeal Panel amended the sanctions ordered in its Decision of November 10, 2020 as follows:

1. The Reprimand ordered in the November 10, 2020 Decision is amended to reflect the directions from the Court of Appeal and is reissued as follows:

As confirmed by the Alberta Court of Appeal, your email of April 22, 2015 to your patient threatening an action for defamation against the patient for making a complaint to the College, the Appeal Panel found this was conduct that obstructed the complaint process and constitutes unprofessional conduct. The complaints process is a critical component of the self-regulation of dentistry and members must act responsibly when communicating with patients about complaints. It is certainly unprofessional conduct to threaten patients who have filed a complaint.

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2. The Orders directing Dr. Jinnah to pay a portion of the costs of the investigation and hearing and the appeal to the Appeal Panel are cancelled and no costs are ordered.