

College of Dental Surgeons of Alberta

Hearing Tribunal Decision

May 12, 2023

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

On May 12, 2023, a panel of Council (the "Appeal Panel") upheld, in part, findings of unprofessional conduct against Dr. Nimet Jinnah. Dr. Jinnah appealed the Hearing Tribunal's finding of guilt on three allegations: failing to create or maintain adequate patient records, failing to comply with the Standard of Practice: Minimal and Moderate Sedation, Deep Sedation and General Anaesthesia in Non-Hospital Dental Practice (the "Sedation Standard") in administering Modality 2 sedation, and engaging in inappropriate conduct with respect to fees, billing, or collections practices.

The Appeal Panel upheld the decision of the Hearing Tribunal with respect to failing to create or maintain adequate patient records. Dr. Jinnah failed to take an updated medical history of the patient on five occasions. Further, there was no notation as to why Dr. Jinnah had prescribed Ativan for the patient, including no notation on an assessment of the patient, or whether there had been medical changes that would affect the appropriateness of the prescription after not seeing the patient for a year and a half. The Appeal Panel agreed that record keeping is required for continuity of patient care. Asking if there are changes to a patient's medical history is very important, especially where a dentist has not seen a patient for a period of time.

The Appeal Panel upheld the decision of the Hearing Tribunal with respect to administering Modality 2 Sedation. There was no record of written informed consent, of the patient's medical history, of clear instructions on how to take the medication or possible side effects, or of the patient's recovery status being assessed. Further, Dr. Jinnah had only assessed the patient's colour, breathing, and level of consciousness. This was insufficient to comply with the Sedation Standard. A baseline of blood pressure and pulse are required when a patient falls into Modality 2. The Appeal Panel found that there is an obligation on dentists and staff to follow the Sedation Standard and that failure to do so is a serious breach. The requirements in the Standards of Practice are part of procedures intended for safety of the public when administering sedation or local anaesthetic. Recording information is important in the event of an emergency, as this information must be provided to emergency medical services.

With respect to the allegations on fees, billings, or collections practices, the Appeal Panel considered the Alberta Court of Appeal's decision in *Jinnah v Alberta Dental Association and College*, which involved similar business practices of Dr. Jinnah alleged to be unprofessional conduct. The Appeal Panel considered the directions of the Court of Appeal and found the charges relating to business practices did not constitute unprofessional conduct.

ORDERS OF COUNCIL

The Appeal Panel issued the following orders on sanction:

1. Dr. Jinnah shall receive a reprimand;
2. Dr. Jinnah shall repay the costs of the oral sedation fees paid by the patient in the sum of \$923.00;
3. Dr. Jinnah shall pay a fine of \$7,500.00 for breaches of the Sedation Standard; and
4. Dr. Jinnah shall pay \$15,000.00 in costs for the investigation and hearing and appeal.