

COLLEGE OF PHYSICIANS & SURGEONS OF ALBERTA

IN THE MATTER OF
A HEARING UNDER THE *HEALTH PROFESSIONS ACT*,
RSA 2000, c. H-7

AND IN THE MATTER OF A HEARING / PRELIMINARY
APPLICATION REGARDING
THE CONDUCT OF DR. NEIL SKJODT

**DECISION OF THE HEARING TRIBUNAL OF
THE COLLEGE OF PHYSICIANS
& SURGEONS OF ALBERTA ON THE
PRELIMINARY APPLICATION**

I. INTRODUCTION

1. The Hearing Tribunal held a hearing into the conduct of Dr. Neil Skjodt on April 7, 2022. The members of the Hearing Tribunal were:

Dr. Randall Sargent (Chair)
Dr. Ralph Strother
Ms. Anita Warnick (Public Member)
Ms. Sheri Epp (Public Member)

Ms. Mary Marshall acted as independent legal counsel for the Hearing Tribunal.

Appearances:

Mr. Craig Boyer and Ms. Stacey McPeck, legal counsel for the Complaints Director;
Mr. James Heelan and Ms. Natasha Laffin, legal counsel for Dr. Skjodt.

II. PRELIMINARY MATTERS

2. Neither party objected to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing.
3. There was no application to close the hearing. Counsel for the Complaints Director submitted that the names of patients would not be referred to during the course of the hearing. There were no objections from counsel for Dr. Skjodt, and this was agreed to by the Hearing Tribunal.
4. At the outset of the hearing, on prior notice, Dr. Skjodt brought a preliminary application seeking a stay of this matter arguing breach of procedural fairness, namely undue delay.
5. Exhibit 1 consists of a Notice of Hearing establishing the jurisdiction of this Hearing Tribunal. The Hearing Tribunal convened for the sole purpose of considering the stay application. The hearing of the merits of the charges was delayed pending this challenge. This decision provides the determination and direction of the Hearing Tribunal in relation to the preliminary application.

III. EVIDENCE

6. The following Exhibit was entered into evidence during the hearing:

Exhibit 1: Notice of Hearing dated October 27, 2021

7. The parties also filed written materials. Counsel for Dr. Skjodt provided documentation dated March 17, 2022 as follows:
 - a. Letter from counsel for Dr. Skjodt;

- b. Notice of Application on behalf of Dr. Skjodt dated March 3, 2022;
 - c. Written Submissions of Dr. Skjodt Regarding Application to Stay Proceedings for Delay dated March 17, 2022;
 - d. Book of Authorities, including the following Tabs 1 to 15:
 - i. *Cardinal v Director of Kent Institution*, [1985] 2 SCR 643;
 - ii. *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 SCC 699;
 - iii. *Kane v University of British Columbia*, [1980] 1 SCR 1105;
 - iv. *Diaz-Rodriguez v British Columbia (Police Complaint Commissioner)*, 2020 BCCA 221;
 - v. *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44;
 - vi. *Abrametz v Law Society of Saskatchewan*, 2020 SKCA 81, leave to appeal to SCC granted, No 39340;
 - vii. *Investment Dealers Association of Canada v MacBain*, 2007 SKCA 70;
 - viii. *United Food and Commercial Workers, Local 1400 v Tora Regina (Tower) Limited*, 2008 SKCA 38;
 - ix. *Health Professions Act*, RSA 2000, c H-7;
 - x. *Peet v Law Society of Saskatchewan*, 2014 SKCA 109;
 - xi. *R v Power*, [1994] 1 SCR 601;
 - xii. *Giguère v Chambre des notaires du Québec*, 2004 SCC 1;
 - xiii. *Jacobs v McElhanney Land Surveys Ltd*, 2019 ABCA 220, leave to appeal to SC refused, No 38938;
 - xiv. *Davison v Nova Scotia Construction Safety Association*, 2006 NSCA 63.
 - xv. *Wachtler v College of Physicians and Surgeons (Alberta)*, 2009 ABCA 130.
 - e. Sworn Affidavit of Dr. Skjodt, dated January 7, 2022;
 - f. Sworn Affidavit of Ms. New dated January 11, 2022; and
 - g. Transcript and exhibits from Dr. Dawn Hartfield's cross-examination dated March 4, 2022
8. Counsel for the Complaints Director provided documentation on April 1, 2022, as follows:
- a. Written Submissions dated April 1, 2022, including the following authorities:
 - i. *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44;

- ii. *Hennig v. Institute of Chartered Accountants of Alberta*, 2008 ABCA 241;
 - iii. *Sazant v The College of Physicians and Surgeons of Ontario*, 2012 ONCA 727;
 - iv. *Health Professions Act*, RSA 2000, Chapter H-7, section 54(3);
 - v. *R. v. Harker*, 2020 ABQB 603;
 - vi. *Kalashnikoff v. Her Majesty the Queen*, 2021 ABQB 327;
 - vii. *R v Pettitt*, 2021 ABQB 84;
 - viii. *Law Society of Alberta v. Odishaw*, 2011 ABL 28;
 - ix. *R. v. La*, 1997 CanLII 309 (SCC), [1997] 2 SCR 680.
- b. Transcript of Cross-Examination on Dr. Skjodt's Affidavit, with attached exhibits dated March 4, 2022; and
 - c. Affidavit of Dr. Dawn Hartfield sworn on January 27, 2022.

IV. SUBMISSIONS

Submissions by Counsel for the Investigated Member

- 9. Counsel for Dr. Skjodt submitted that justice delayed is justice denied, and it will be denied if the application for a stay is not successful. It is the obligation of the College to ensure that the investigation and the process leading to the hearing are in accordance with natural justice. Dr. Skjodt is requesting that all three complaints be stayed and that he be relieved of his undertaking.
- 10. Counsel for Dr. Skjodt reviewed the dates for the three complaints.
- 11. For Complainant #3, the alleged conduct occurred on or about March 9, 2010. She filed a complaint in July 2018. The College received an expert opinion in June 2019, and a report resulting from an investigation ("Investigation Report") in February 2020. Counsel for Dr. Skjodt submitted that the College was ready to proceed as of February 2020.
- 12. For Complainant #2, the alleged conduct occurred on or about February 28, 2012. She filed a complaint in March 2018. The College received an expert opinion in April 2019, and an Investigation Report in February 2020. Counsel for Dr. Skjodt submitted that the College was ready to proceed as of February 2020.
- 13. For Complainant #1, the alleged conduct occurred on May 13, 2015 and November 4, 2015. She filed a complaint in December 2015. The College received an Investigation Report in September 2016, and an expert opinion in September 2017. Counsel for Dr. Skjodt submitted that the College was ready to proceed as of September 2017.
- 14. The following dates apply to all three complaints: the Investigation Reports were provided to Dr. Skjodt in January 2021; the College's files relating to

- the complaints (“Disclosure Package”) were provided to Dr. Skjodt in June 2021; the draft Notice of Hearing was provided to Dr. Skjodt on August 31, 2021; and the Notice of Hearing was issued on October 27, 2021.
15. The Disclosure Package is an important part of the process since Dr. Skjodt needs to know the case against him. This is a situation where memories matter, which makes the College’s delay even more concerning.
 16. Counsel for Dr. Skjodt reviewed the law relating to delay and administrative proceedings and outlined the test set out by the Supreme Court of Canada in *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 (CanLII), [2000] 2 SCR 307 (“*Blencoe*”). He submitted that the College’s unacceptable delay caused Dr. Skjodt significant harm and prejudiced him to the extent that the administrative process should be terminated. While the passage of time brings into question the fairness of the hearing itself and the risk of fading memories, that is not part of this application for a stay.
 17. He submitted that the decision of the Saskatchewan Court of Appeal in *Abrametz v Law Society of Saskatchewan*, 2020 SKCA 81, leave to appeal to SCC granted, No 39340 (“*Abrametz*”) sets out the threshold for granting a stay when there has been “inordinate” delay. The party claiming an abuse of process must show that the delay directly caused them significant prejudice. The public’s sense of decency and fairness must be affected in order for there to be an abuse of process. The damage to the public interest must exceed the harm to the public interest if the proceedings were halted. The party seeking a stay bears a heavy burden. A stay is not the only available remedy, and it will only be granted in the clearest of cases.
 18. Regarding the period of delay, the question is whether the time taken in the administrative process exceeds the inherent time requirements of the case. The time frame begins when the regulator knows enough about the complaint that the regulatory process gets engaged. The time frame should begin when the complaints were made by the three complainants. In all likelihood, the substantive hearing into the merits of these complaints will not begin until the fall of 2022 or 2023. Assuming that the hearing on the merits would commence in September 2022, the period of delay from the date of complaint to the commencement of the merits hearing is 50 months for Complaint #3, 54 months for Complaint #2, and 84 months for Complaint #1.
 19. Under the *Health Professions Act* (“HPA”), the Hearings Director must either refer a matter to a hearing or dismiss it following receipt of an investigation report. The Investigation Reports were received in September 2016 for Complaint #1, and February 2020 for Complaint #2 and Complaint #3. Counsel for Dr. Skjodt submitted that no decision was made to refer these complaints to a hearing until June 2021 when the Disclosure Package was provided, or August 2021 when the draft Notice of Hearing was provided to Dr. Skjodt.
 20. The delays are inordinate and are even more concerning because the allegations are serious and involve sexual misconduct. This is not something

that should be hanging over a physician's head for years, or go unresolved for the benefit of complainants for years. The College marked each of these complaints as high-priority complaints which were to be resolved as quickly as possible, and the opposite has occurred.

21. Regarding Complaint #1, on December 18, 2015 the Complaints Director informed Dr. Skjodt that the College would make every effort to manage the complaint in as timely a manner as possible. In March 2017, counsel for Dr. Skjodt requested a prompt hearing of this matter.
22. The College has attempted to blame Dr. Skjodt for the delay but it is not up to him to advance these matters. There is no evidence to suggest that raising an issue of privacy with the Information and Privacy Commissioner or changing lawyers caused the delay. An attempt to resolve matters does not stop the College from directing a hearing and empaneling the Hearing Tribunal. Discussions about resolution are not an excuse for a delay.
23. The College did not have its investigator give evidence to explain the delays. The pandemic only accounts for a small period of time. All three matters could have been heard before the commencement of the pandemic. The three matters have been consolidated in the Notice of Hearing, but that is not something the College was obliged to do and is not an excuse for the delay. It is not reasonable to say that the delay is anything but inordinate.
24. Regarding prejudice, it must be shown that the adverse consequences facing the investigated member were caused by the delay in dealing with the complaints and not the complaints themselves. There is always some stress when dealing with a complaint, but that is not enough. The prejudice must be of such a magnitude that the public's sense of fairness and decency would be offended.
25. The personal prejudice may arise through damage to physical health, psychological harm, stigma affecting a person's reputation, negative economic consequences, negative impacts on family, and the impact of interim regulatory measures.
26. Dr. Skjodt has been subject to a practice restriction since February 2016, and he only sees male patients. Dr. Skjodt believed that this restriction would be best for managing a challenging situation and would be short-lived. This restriction has negatively impacted him in a substantial way. He has had to work under a cloud of suspicion, and there has been harm to his reputation and significant financial consequences.
27. This warrants a finding of prejudice. It is insignificant that Dr. Skjodt consented to the restrictions on his practice permit because he did not consent in any real sense. He recognized that his practice would be restricted as a result of the serious allegation against him until a resolution could be reached. In his Affidavit Dr. Skjodt states:
 - a. I have suffered from psychological harm and stress for a period of over six years, negatively impacting my mental health, stamina, and overall well-being;

- b. My professional practice has been disrupted by the imposition of not being able to provide medical care to female patients for a period of six years;
 - c. Former female patients have been required to seek medical care elsewhere, potentially compromising their continuity of care and causing me further psychological harm and stress;
 - d. I have suffered serious negative financial repercussions as a result of limitations placed on my practice for an extended period of time causing me further psychological harm and stress;
 - e. My family has been unduly prejudiced by this matter, negatively impacting their overall health and well-being, placing significant strain on our family relationships, and causing my mental health and well-being to further deteriorate;
 - f. My professional practice's staff have been unduly stressed by this matter, concerned about the viability of my practice for an extended period of time, causing further mental distress to myself and negatively impacting my professional relationships; and
 - g. I have suffered from the imposition of social stigma impacting my professional and personal reputations in the community.
28. The evidence provided by Dr. Skjodt in his Affidavit has not been challenged through cross-examination, and it is uncontroverted evidence. The fact of prejudice has been proven, and it all relates to the limitation placed on his practice for an extended period of time.
29. Regarding competing interests, complainants should have an opportunity to have their complaints heard and dealt with by the College. However, there are circumstances in which the rights of a complainant must yield. This application must be viewed through the eyes of a reasonable observer regarding whether the College exercised good faith efforts to provide prosecutorial protections to Dr. Skjodt as an alleged wrongdoer.
30. Regarding the remedy, the proceedings should be stayed and the Complaints Director directed to relieve Dr. Skjodt of all of his obligations to the College. While it would have been preferable if all of the complaints proceeded in a prompt way, it is not the fault of Dr. Skjodt that so much time has passed.

Submissions by Counsel for the Complaints Director

31. Counsel for the Complaints Director stated that submissions are not evidence. The onus is on Dr. Skjodt to establish that the personal prejudice is of such a magnitude that the public sense of decency and fairness is affected. This is a high burden.
32. In the *Abrametz* decision, the Saskatchewan Court of Appeal noted that there was no explanation for the passage of time. In contrast, the timeline for the complaints is outlined in the Complaints Director's Affidavit sworn on January 27, 2022. Complaint #1 was viewed in isolation and there was an

attempt to resolve it. Those attempts failed in late 2017. Within a matter of months, Complaint #2 and Complaint #3 were received by the College. These additional complaints raised the concern about a potential pattern of practice. The Investigation Reports for Complaint #2 and Complaint #3 were completed in the third week of February 2020. In the middle of March 2020, COVID-19 occurred and there were no contested hearings until December 2020. At that time hearings started in a virtual format.

33. In administrative law, the courts take into account the passage of time from when the complaint was received in contrast to criminal law proceedings when all of the pre-charge time is not considered when calculating the delay.
34. Counsel for the Complaints Director submitted that evidence of significant personal prejudice was provided in *Abrametz*. The fact that Mr. Abrametz was under investigation and facing restrictions on his practice became public and subject to media attention. He was unable to deal with his trust account and had to have another lawyer deal with trust funds. There was also specific medical information that Mr. Abrametz was suffering from high blood pressure.
35. In comparison, Dr. Skjodt made general statements in his Affidavit and then expanded on those statements in cross-examination. The evidence on prejudice all comes down to the condition that Dr. Skjodt only sees male patients. He felt that it would be more harmful to require that female patients have a chaperone present and undertook to stop seeing all his female patients.
36. The evidence shows that it was already Dr. Skjodt's practice to offer chaperones to female patients, and he had a number of health care professionals on staff that could take on the role of chaperone. The original request of the Complaints Director was that Dr. Skjodt have a chaperone in the room with female patients. Dr. Skjodt chose a more restrictive condition in choosing to see only male patients.
37. Mr. Abrametz was forced to practice under intrusive conditions. In contrast, Dr. Skjodt chose to practice under more restrictive conditions.
38. The College is dealing with many investigations and a delay because of volume is just one of the factors that must be considered.
39. The decision in *Abrametz* considered the impact of adverse publicity as a result of the proceedings. There were media reports and newspaper articles. In contrast, there were no media reports involving Dr. Skjodt and there is a "sanitized version" of the Notice of Hearing on the website. There are media stories dealing with ongoing provincial court proceedings involving Dr. Skjodt that are not related to the College proceedings.
40. In his Affidavit, Dr. Skjodt describes personal stigma, trauma and damage to his reputation. This results from his undertaking to only see male patients. However, his practice prior to the complaints was to offer his female patients a chaperone, and there were female health professionals in his office who were available to be chaperones. The undertaking that was originally

proposed by the Complaints Director was that he follow that practice and have a chaperone present with all female patients. It would have been a very small change. Dr. Skjodt has never asked for his undertaking to be changed. He has chosen a more restrictive practice condition and has never asked to go back to a less restrictive one.

41. The decision in *Abrametz* summarizes four decisions dealing with delay at paragraphs 155-168. In all of the decisions the application for a stay was denied and Dr. Skjodt must meet a very high burden. In *Wachtler v College of Physicians and Surgeons (Alberta)*, 2009 ABCA 130 there was a reduction of the suspension and an erasure of the costs that were ordered.
42. There are some distinguishing facts in the situation before the Hearing Tribunal. Complainant #1 came forward. An investigation was completed and there was an attempt to resolve the complaint. Complainant #2 and Complainant #3 then filed complaints with the College. This is not simply about the passage of time to deal with a single complaint. Instead, the concern became one where there is a pattern of conducting a medical examination beyond the scope of what is medically appropriate. That is a unique factor.
43. The impact of COVID is an outside and uncontrollable factor that the courts take into account when calculating delay. That is another unique factor. As well, Dr. Skjodt is relying upon a practice restriction that he requested. His explanation that restricting his practice to males is less intrusive does not make sense when female chaperones are readily available in his practice setting.
44. There is no condition on his practice permit on the public-facing web. There is no publication of the undertaking. There are no media stories about the investigation, the complaints, or the restriction of seeing only male patients.
45. Counsel for the Complaints Director submitted that the Hearing Tribunal should proceed to hear the merits of the case. If the Hearing Tribunal decides that there are proven allegations, the passage of time may be reflected in the sanction.

Submissions in Reply by Counsel for the Investigated Member

46. The undertaking becomes known in the community and the profession, and stigma remains even though the undertaking is not on the College website and has not been the subject of media coverage.
47. The College has imposed a restriction on Dr. Skjodt's practice and this restriction has continued for more than six years. Whether the precise restriction involves a chaperone or seeing only male patients is a "distinction without a difference". Dr. Skjodt never anticipated having to practice in this way for more than six years. This restriction effectively operates as an interim sanction and causes prejudice.

Questions from the Hearing Tribunal

48. *What is the usual practice of the College when there are three allegations of the same nature but they occurred over a different time period? Do they proceed as one hearing or three separate hearings?*
49. Counsel for the Complaints Director submitted that it is infrequent to have multiple complaints against a physician by different patients that raise the same conduct. The practice in the past was to address them in the same hearing because of the similarity of the conduct.
50. Counsel for Dr. Skjodt submitted that the College chooses whether or not to combine complaints or keep them separate. Regarding Complaint #1 an Investigation Report was completed in September 2016, and a hearing could have followed shortly thereafter. Complaint #2 was received in March 2018 and Complaint #3 was received in July 2018. Complaint #1 should have been completed before the other two complaints came in.
51. *The Affidavit presented by Dr. Skjodt states that he suffered from psychological harm and stress, negatively impacting his mental health, stamina and well-being. He has suffered negative financial repercussions as a result of limitations placed on his practice. Is there any third-party verification from experts, psychologists or financial information that would verify these statements?*
52. Counsel for Dr. Skjodt submitted that there is no third-party evidence. The statements of Dr. Skjodt in the Affidavit are unchallenged evidence, and he has come forward and made these comments as if he stood before the Hearing Tribunal on the witness stand.
53. Counsel for the Complaints Director submitted that the burden remains on Dr. Skjodt in this application, and it is a high test that must be met. It is up to the Hearing Tribunal to determine whether what has been presented is sufficient to meet the test. It is the position of the Complaints Director that it fails to meet the test.

V. DECISION

54. After considering the submissions of counsel for the Investigated Member and the Complaints Director as well as the material filed, the Hearing Tribunal denied the Investigated Member's application for the reasons that follow. The hearing on the merits will proceed. Given that this application was brought before the opening of the hearing on the merits, this Hearing Tribunal is not seized of this matter and the hearing may proceed with a newly composed Hearing Tribunal, if necessary. Costs of the April 7, 2022 application can be addressed at the conclusion of the hearing on the merits.

VI. REASONS FOR DECISION

55. This is the Investigated Member's application. He bears the onus to discharge the burden of proof that the proceeding ought to be stayed. He has not done so.
56. The leading decision on delay in the administrative context is *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 (CanLII), [2000] 2 SCR 307 and it is the principles in *Blencoe* which must be applied here ("Blencoe framework"). *Abrametz v Law Society of Saskatchewan*, 2020 SKCA 81 (CanLII) ("*Abrametz*") does not establish new law in the determination of delay in the administrative tribunal context.
57. The elements of the *Blencoe* framework were set out in *Abrametz*:

[142] Justice Bastarache was at pains to emphasize the limited scope of this ground for relief from abuse of process arising from state-caused delays, particularly where a stay is requested. As he put the matter, "delay, without more, will not warrant a stay of proceedings" as that "would be tantamount to imposing a judicially created limitation period" (at para. 101). Limitation periods are the province of legislatures, not courts. For a court to intervene on this ground, it must be satisfied that there has been both inordinate delay caused by the administrative entity, and prejudice of a certain order attributable to that delay. The following principles identified in Blencoe reflect these requirements:

1. *The period of delay must be so inordinate as to be clearly unacceptable (at paras 115 and 121). Whether a delay is inordinate turns on contextual factors, including "the nature of the case and its complexity, the facts and issues, the purpose and nature of the proceedings, and whether the respondent contributed to the delay or waived the delay, and other circumstances of the case" (at para 122)*
2. *The party claiming abuse of process must show that the inordinate delay "directly caused [them] a significant prejudice" that is related to the delay itself (at para 113 emphasis added.) In order for there to be abuse of process, "the delay must have caused actual prejudice of such magnitude that the public's sense of decency and fairness is affected" (at para 133.)*

3. *The analysis requires a weighing of competing interests. "In order to find an abuse of process, the court must be satisfied that "the damage to the public interest in the fairness of the administrative process should the proceeding go ahead would exceed the harm to the public interest in the enforcement of the legislation if the proceedings were halted." (at para. 120)*
 4. *A stay is not the only remedy available in administrative law proceedings. However, where a respondent asks for a stay, they will bear a heavy burden (at para 117). A finding of abuse of process is available only in the "clearest of cases" (at para 120.)"*
58. The Hearing Tribunal applied the *Blencoe* framework in this matter when considering the following questions: what is the period of delay at issue; what delay is attributable to the College; whether the delay attributable to the College is unreasonable or inordinate; whether the delay caused prejudice to Dr. Skjodt; whether the prejudice to Dr. Skjodt outweighs the public interest in having the matter adjudicated on the merits; and what is the appropriate remedy.
 59. The Hearing Tribunal determined that there was insufficient evidence that any delay caused the type of prejudice that is required for a stay application, and dismissed the application on that basis. The parties agree that there is a heavy burden placed on an applicant in establishing the prejudice that is needed to justify a stay. There is no compelling evidence that any delay in these proceedings has, on its own, been directly responsible for prejudice to the Investigated Member. Dr. Skjodt offers no third party information to support what amounts to bare assertions in his Affidavit. The situation before the Hearing Tribunal can be distinguished from the one that was considered by the Saskatchewan Court of Appeal in *Abrametz*. In *Abrametz*, the applicant provided proof of health problems, negative media stories, and restrictive public conditions (i.e. Mr. Abrametz had no trust account and had to practice under the supervision of another lawyer.)
 60. Although the determination on prejudice disposes of the application for a stay, the Hearing Tribunal also considered the period of delay involving the complaints.
 61. The *Blencoe* framework for what constitutes delay was stated by the Supreme Court of Canada as follows (paragraph 122):

The determination of whether a delay has become inordinate depends on the nature of the case and its complexity, the facts and issues, the purpose and nature of the proceedings, whether the respondent contributed to the delay or waived the delay, and other circumstances of

the case. As previously mentioned, the determination of whether a delay is inordinate is not based on the length of the delay alone, but on contextual factors, including the nature of the various rights at stake in the proceedings, in the attempt to determine whether the community's sense of fairness would be offended by the delay.

62. The determination of whether a delay is inordinate involves a consideration of contextual factors, including the nature of various rights at stake.
63. There are a number of contextual factors that must be considered in the examination of professional regulatory matters. The role of a professional regulator is to protect the public. Contemporary professional regulation is designed to be flexible, and there are a number of possible programs to deal with concerns relating to unprofessional conduct apart from a disciplinary hearing and sanctions. Time is required to explore alternatives to a disciplinary hearing. Undertakings may be used to protect the public interest pending a hearing or the exploration of other alternatives.
64. There is a balance between public protection and procedural fairness that must be struck by professional regulators. In general Colleges and their members have an ongoing relationship, and complex disciplinary proceedings involving serious allegations require careful management.
65. There are three complaints that are the subject of this application, and they have given rise to three charges. The details of each charge are not relevant for the stay application.
66. Complaint #1 was received by the College in December 2015. On the face of it this is a lengthy delay and is of great concern to the Hearing Tribunal. Complainants, investigated members, and the public should be able to rely on the College to bring matters forward in a timely manner for a hearing. In this way the College serves and protects the public interest as it is required to do by the HPA. Section 3(1) of the HPA specifically provides that a college "must carry out its activities and govern its regulated members in a manner that protects and serves the public interest".
67. In this particular situation there are the complicating factors of additional complaints and the pandemic. The College is not obliged to consolidate matters. However, the College should have significant latitude regarding how to best bring forward allegations to a hearing. The decision to consolidate all three complaints into one hearing increased the complexity of these matters, including protection of the public and fairness to the member. The Hearing Tribunal agrees with submissions by the Complaints Director that concerns about delay may be addressed during the sanctions phase of the hearing.

VII. ORDERS

Order

68. The Hearing Tribunal orders that Dr. Skjodt's application for a stay of all complaints and a direction that he be relieved of all obligations relating to his undertaking to the College is dismissed.

Concluding Matters

69. The College can continue with the hearing on the charges. Costs to be dealt with at the conclusion of the hearing on the merits. This Hearing Tribunal is not seized with this matter.

Signed on behalf of the Hearing Tribunal by the Chair:



Dr. Randall Sargent

Dated this 29th day of April, 2022.