

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 REGARDING  
THE CONDUCT OF DR. RICHARD HATFIELD

**DECISION OF THE HEARING TRIBUNAL OF  
THE COLLEGE OF PHYSICIANS  
& SURGEONS OF ALBERTA  
JUNE 20, 2024**

## **I. INTRODUCTION**

1. The Hearing Tribunal held a hearing into the conduct of Dr. Richard Hatfield on May 15, 2024. The members of the Hearing Tribunal were:

Dr. Don Yee as Chair;  
Dr. Goldees Liaghati-Nasseri;  
Mr. Glen Buick (public member);  
Ms. Sarita Dighe-Bramwell (public member).

Also present were:

Ms. Tracy Zimmer, legal counsel for the Complaints Director;  
Dr. Richard Hatfield;  
Ms. Karen Pirie, legal counsel for Dr. Richard Hatfield.

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

## **II. PRELIMINARY MATTERS**

2. Neither party objected to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing. There were no matters of a preliminary nature.
3. The hearing was open to the public pursuant to section 78 of the *Health Professions Act*, RSA 2000, c H-7 ("HPA"). There was no application to close the hearing.

## **III. CHARGES**

4. The Notice of Hearing listed the following allegations:
  1. *On or about April 28, 2023, you failed to maintain an appropriate physician and patient boundary with your patient, which constitutes sexual misconduct contrary to the Standard of Practice: Boundary Violations: Sexual and the Health Professions Act, particulars of which include one or more of the following:*
    - a. *hugging her from behind;*
    - b. *hugging her from the front;*
    - c. *cradling her face with your hands;*
    - d. *attempting to kiss her; and*
    - e. *asking her "can I kiss you?"*
  2. *[WITHDRAWN].*

3. *You prescribed the stimulant, Vyvanse, to your patient, contrary to the Standard of Practice: Prescribing: Drugs Associated with Substance Use Disorders or Substance-Related Harm, when you:*
  - a. *on or about November 8, 2022, failed to document a discussion with your patient about:*
    - i. *the efficacy of other pharmacological and non-pharmacological treatment options,*
    - ii. *common and potentially serious side effects of the medication, and*
    - iii. *the probability the medication will improve the patient's health and function;*
  - b. *failed to document a review of the patient's medication history:*
    - i. *before initiating a prescription on or about November 8, 2022;*
    - ii. *before increasing the dosage of a prescription on or about November 23, 2022;*
    - iii. *before renewing a prescription on or about April 12, 2023;*
4. *On or about January 13, 2023, you prescribed the benzodiazepine, Ativan, to your patient, contrary to the Standard of Practice: Prescribing: Drugs Associated with Substance Use Disorders or Substance-Related Harm, when you:*
  - a. *failed to document a discussion with your patient about:*
    - i. *the efficacy of other pharmacological and non-pharmacological treatment options,*
    - ii. *common and potentially serious side effects of the medication, and*
    - iii. *the probability the medication will improve the patient's health and function;*
  - b. *failed to document a review of the patient's medication history before initiating the prescription.*
5. Prior to the hearing, the Complaints Director withdrew Allegation 2 and all of its subparts. Dr. Hatfield admitted that Allegations 1, 3 and 4 were proven and that his conduct constituted unprofessional conduct as defined in the *Health Professions Act*.

#### **IV. EVIDENCE**

6. The following Exhibits were entered into evidence during the hearing:

- Exhibit 1:** Agreed Exhibit Book
- Tab 1:** Notice of Hearing dated February 26, 2024
- Tab 2:** Letter of Complaint from [REDACTED] [REDACTED] dated May 11, 2023
- Tab 3:** Letter of Complaint from [REDACTED] [REDACTED] dated May 12, 2023
- Tab 4:** Letter of Complaint from the Patient dated May 23, 2023, with enclosures
- Tab 5:** WhatsApp Message Dr. Hatfield to the Patient
- Tab 6:** Email response from Dr. Hatfield dated July 11, 2023
- Tab 7:** Patient Chart
- Tab 8:** Alberta Health Billing Records
- Tab 9:** CPSA Standards of Practice: Boundary Violations: Sexual
- Tab 10:** CPSA Standards of Practice: Prescribing: Drugs Associated with Substance Use Disorders or Substance-Related Harm
- Exhibit 2:** Executed Admission and Joint Submission Agreement
- Exhibit 3:** Victim Impact Statement (Redacted)

7. Counsel for the Complaints Director also filed the following materials:
- a. Victim Impact Statement case law:
    - i. *R. v. Gabriel*, 1999 CanLII 15050 (ON SC);
    - ii. *Ontario (College of Physicians and Surgeons of Ontario) v. Mrozek*, 2018 ONCPSD 69 (CanLII);
    - iii. *Ontario (College of Physicians and Surgeons of Ontario) v. Phipps*, 2019 ONCPSD 45 (CanLII); and
    - iv. *Ontario (College of Physicians and Surgeons of Ontario) v. Pilarski*, 2016 ONCPSD 41 (CanLII).

## V. SUBMISSIONS REGARDING THE ALLEGATIONS

### Submissions on Behalf of the Complaints Director

8. Ms. Zimmer thanked Ms. Pirie for her cooperation and assistance that allowed this hearing to proceed on the basis of agreement, thus obviating the need for a contested hearing including witness testimony.

9. Ms. Zimmer summarized that the Hearing Tribunal's role would be to determine if the allegations are factually proven and, if so, if the proven conduct amounts to unprofessional conduct. The Hearing Tribunal would then be required to consider the joint submission on penalty and decide whether it is acceptable.
10. Ms. Zimmer drew attention to the Notice of Hearing and the allegations against Dr. Hatfield. She pointed out that the Complaints Director had withdrawn Allegation 2 and all of its subparts. She then provided some background behind the complaint which led to today's hearing and pointed out various relevant sections of Exhibit 1 including the three separate complaints the CPSA received about Dr. Hatfield's conduct, all which spoke to the same incident and conduct. She highlighted online communications between Dr. Hatfield and the Patient which occurred before and after the admitted conduct, Dr. Hatfield's email response to the complaints, Dr. Hatfield's medical chart for the Patient including prescriptions for Vyvanse and Ativan, and Alberta Health billing records Dr. Hatfield submitted for care provided to the Patient.
11. Ms. Zimmer pointed out that the Complainant was a patient of Dr. Hatfield's and also worked with him as a clinic nurse. He started messaging the Patient on WhatsApp and his messages were sexual and flirty in nature. His conduct escalated to him rubbing the Patient's shoulders and then on April 27, 2023, he hugged the Patient from behind and later hugged her again, grabbed her face with both hands and tried to kiss her, but she turned away. He then asked if he could kiss her, to which she replied no. The complaint notes that Dr. Hatfield had prescribed Vyvanse to the Patient a couple of weeks prior to this incident.
12. Ms. Zimmer presented multiple text messages Dr. Hatfield sent to the Patient after April 27, 2023, where he apologizes for his behavior, asks her not to discuss the incident with anyone and asks to speak to her about it. Ms. Zimmer stated the texts reflect that Dr. Hatfield was aware that his conduct was inappropriate.
13. Ms. Zimmer reviewed Dr. Hatfield's medical chart for the Patient. He provided care to her dating back to February 13, 2018, for such things as anxiety, concerns about ADHD, cluster headaches and foot pain. She highlighted multiple examples in the Patient's medical chart where Dr. Hatfield arranged for bloodwork and other tests and made specialist referrals on the Patient's behalf and concluded that the patient records support that Dr. Hatfield did have a physician-patient relationship with the Patient that spanned several years.
14. Ms. Zimmer highlighted the prescriptions for Ativan and Vyvanse provided to the Patient by Dr. Hatfield.

15. Ms. Zimmer advised the relevant CPSA standards of practice to this case are those relating to Boundary Violations: Sexual and Prescribing: Drugs Associated with Substance Use Disorders or Substance-Related Harm.
16. Ms. Zimmer reviewed the definition of sexual misconduct as outlined in the CPSA Standard of Practice relating to Boundary Violations: Sexual and pointed out this is different than what is considered sexual abuse. She noted that regulated members found guilty of sexual misconduct face a mandatory suspension. She reviewed the CPSA Standard of Practice regarding prescribing.
17. Ms. Zimmer specified that the hearing was proceeding on the basis of Dr. Hatfield's admission to Allegations 1, 3, and 4 as outlined in the Notice of Hearing and that his admitted conduct does amount to unprofessional conduct as defined in the *Health Professions Act*.
18. Ms. Zimmer submitted that the evidence within Exhibit 1 supports Dr. Hatfield's admission and that his conduct does amount to unprofessional conduct. She stated Dr. Hatfield contravened the relevant CPSA Standards of Practice and the *Health Professions Act* by engaging in behavior that constitutes sexual misconduct towards a patient, failing to properly document discussions about medications and failing to document a review of a patient's medications before initiating a prescription.

#### **Submissions on Behalf of Dr. Hatfield**

19. Ms. Pirie indicated she agreed with Ms. Zimmer's submissions. She added that Dr. Hatfield now does recognize his poor judgement in this case with respect to his professional relationship with the Patient and also in the context of what he felt was a friendship he had with the Patient. She indicated that, with some time to reflect on his behavior towards the Patient, Dr. Hatfield now realizes his actions were unwelcome.
20. Ms. Pirie pointed out that Dr. Hatfield did apologize to the Patient at the time of the admitted conduct, in his reply to the complaint and is doing so today. Dr. Hatfield does agree to the substance of the facts being in relation to unprofessional conduct.

#### **Questions from the Hearing Tribunal**

21. A question was raised by the Hearing Tribunal regarding which specific portions of the HPA's definition of unprofessional conduct are applicable to this case and invited the parties to comment on the extent to which the admitted behavior impacts the integrity and reputation of the medical profession.
22. Ms. Zimmer pointed out the applicable sections of the HPA are subsection 1(1)(pp)(ii), which speaks to contravention of this act, a code or standards of practice and subsection 1(1)(pp)(xii), which speaks to

conduct that harms the integrity of the medical profession. Ms. Pirie agreed with Ms. Zimmer's clarification.

## **VI. FINDINGS REGARDING ALLEGATIONS**

23. The Hearing Tribunal considered Dr. Hatfield's admission under section 70 of the *Health Professions Act*. An admission of unprofessional conduct on the part of a physician may only be acted upon if it is acceptable to the Hearing Tribunal. The admission was acceptable to the Hearing Tribunal, and the Tribunal considered whether the admitted conduct was unprofessional conduct.
24. The Hearing Tribunal accepts Dr. Hatfield's admissions to Allegations 1, 3 and 4 in the Notice of Hearing and finds that these allegations are factually proven. Dr. Hatfield's admitted conduct does constitute unprofessional conduct for the reasons set out below.
25. Dr. Hatfield admitted to Allegation 1, specifically that on or about April 28, 2023, he failed to maintain an appropriate physician and patient boundary with his patient, which constitutes sexual misconduct contrary to the Standard of Practice: Boundary Violations: Sexual and the *Health Professions Act*, particulars of which include one or more of the following:
  - a. hugging her from behind;
  - b. hugging her from the front;
  - c. cradling her face with your hands;
  - d. attempting to kiss her; and
  - e. asking her "can I kiss you?"
26. The Hearing Tribunal was presented with Dr. Hatfield's email response to the CPSA complaints submitted about him. In his response he admits to the alleged conduct in the complaint, acknowledges his actions traumatized the Patient and apologizes for his behavior. He also explains that in addition to working together within the same PCN, the Complainant was a patient of his. The Hearing Tribunal was also presented screenshots of WhatsApp messages between Dr. Hatfield and the Patient where he is flirty and makes sexualized comments. The Hearing Tribunal was also presented screenshots of WhatsApp messages that Dr. Hatfield sent the Patient after his admitted conduct in April 2023 occurred where he acknowledges he overstepped boundaries and that his actions hurt the Patient. In these multiple messages that went unanswered he apologizes for his actions and asks the Patient not to tell anyone what occurred.
27. The Hearing Tribunal was presented with excerpts from the medical chart Dr. Hatfield kept for the Patient. In this record, he managed various medical issues for her including referring her for colonoscopy, ordering

imaging studies, management of thyroid issues, headaches, infections, and her mental health.

28. The Hearing Tribunal considered the College's Standard of Practice relating to Boundary Violations: Sexual which defines "sexual misconduct" as any incident or repeated incidents of objectionable or unwelcome conduct, behavior, or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being but does not include sexual abuse. This standard of practice also outlines if a regulated member engages in the type of behavior set out in the definition of sexual abuse or sexual misconduct with a person who is not his or her patient (such as colleagues, staff, or others) then this conduct may still be considered unprofessional conduct. The Hearing Tribunal finds that Dr. Hatfield's admitted conduct satisfies the definition of "sexual misconduct" as defined in section 1(1)(nn.2) of the HPA. In this case, the Complainant was both a patient and colleague within the same PCN. Therefore, the Hearing Tribunal finds that Dr. Hatfield's proven conduct breaches the CPSA Standard of Practice pertaining to Boundary Violations: Sexual.
29. The CMA Code of Ethics and Professionalism B.31. outlines that a physician must treat their colleagues with dignity and as persons worthy of respect. Colleagues are defined as all learners, health care partners and members of the health care team. At the time of the admitted conduct, the Patient was working as an LPN within the same PCN as Dr. Hatfield and clearly was part of the health care team working with Dr. Hatfield, and the admitted unwanted sexual misconduct and attention was a complete departure from what would be considered treating someone with dignity and respect. Therefore, the Hearing Tribunal finds that Dr. Hatfield's admitted conduct in this regard contravenes the CMA Code of Ethics and Professionalism.
30. Taking into consideration all of these factors, the Hearing Tribunal concluded that Dr. Hatfield's admitted conduct towards the Patient breached the College's Standards of Practice in a significant fashion, as alleged in Allegation 1 and that Dr. Hatfield's conduct amounts to unprofessional conduct as defined by section 1(1)(pp)(ii) of the *Health Professions Act*. Further, Dr. Hatfield's conduct is conduct that harms the integrity of the medical profession and amounts to unprofessional conduct as defined in section 1(1)(pp)(xii) of the *Health Professions Act*.
31. Dr. Hatfield admitted to Allegation 3. Specifically, he admitted that he prescribed Vyvanse to the Patient on or about November 8, 2022, and breached the College's Standard of Practice: Prescribing: Drugs Associated with Substance Use Disorders or Substance-Related Harm when he failed to document a discussion with the patient regarding efficacy of other pharmacologic and non-pharmacologic treatment options, common and



potentially serious side effects of the medication and the probability the medication will improve the patient's health and function.

32. Additionally, Dr. Hatfield admitted that he failed to document a review of the patient's medication history before the November 2022 prescription, before increasing the Vyvanse dose on or about November 23, 2022, and before renewing the prescription on or about April 12, 2023.
33. The Hearing Tribunal was presented evidence of the Vyvanse prescription Dr. Hatfield provided the Patient in November 2022 and then another prescription for an increased dose in April 2023. The corresponding billing events were also presented in the Exhibit Book.
34. The Hearing Tribunal was presented with evidence from Dr. Hatfield's contemporaneous medical notes for the Patient in Exhibit 1. The clinic notes from November 8 and 23, 2022, only document that the patient felt like she has had ADHD for years and requests ADD meds and that she felt better by November 23, 2022. The documented plan is a prescription for Vyvanse 10 mg daily, and there is no documentation of a discussion of other management options, drug side effects and efficacy of the drug. The clinic notes from April 13, 2023, where the Vyvanse dose was increased only state that the patient felt better, and Dr. Hatfield's assessment was that the ADD was 'better'. Dr. Hatfield's billing record for the care he provided the Patient in the Exhibit Book confirms he billed for the November 8, 2022, and November 23, 2022, clinical services using the billing code 'Hyperkinetic syndrome of childhood'.
35. In his reply to the complaint Dr. Hatfield acknowledged that the Complainant was his patient but also explained that the medical advice he gave her was always in the setting of a corridor discussion and that the Complainant was not required to make formal appointments to see him as a patient.
36. Taking these factors into consideration, the Hearing Tribunal found that Dr. Hatfield's admitted conduct with respect to his Vyvanse prescriptions for the Patient breached the College's Standard of Practice: Prescribing: Drugs Associated with Substance Use Disorders or Substance-Related Harm. Dr. Hatfield prescribed a medication with abuse potential without undertaking and documenting a fulsome assessment and discussion of the patient's presenting issue, considering other management options, discussing the medication fully including potential adverse effects, anticipated efficacy of the drug or adequately assessing the patient's prior medication history along with their prior history behind the chief complaint.
37. The Hearing Tribunal therefore concludes that Dr. Hatfield's conduct amounts to unprofessional conduct as defined by section 1(1)(pp)(ii) of the *Health Professions Act*.
38. Dr. Hatfield admitted to Allegation 4. Specifically, he admitted that on or about January 13, 2023, he prescribed Ativan to the Patient and breached

the College's Standard of Practice: Prescribing: Drugs Associated with Substance Use Disorders or Substance-Related Harm when he failed to document a discussion with the patient regarding efficacy of other pharmacologic and non-pharmacologic treatment options, common and potentially serious side effects of the medication and the probability the medication will improve the Patient's health and function.

39. Additionally, Dr. Hatfield admitted that he failed to document a review of the Patient's medication history before the January 2023 prescription.
40. The Hearing Tribunal was presented evidence from Dr. Hatfield's contemporaneous medical chart for the Patient with a clinic note dated January 12, 2023, indicating a complaint of feeling 'very anxious when she travels' and assessment of 'travel anxiety'. The plan for this visit was 'Rx-meds'. The Exhibit Book contained a corresponding prescription Dr. Hatfield issued to the Patient at this visit for Ativan, and the Alberta Health billing records provided in the Exhibit Book confirm Dr. Hatfield billed for this clinical service under a billing code of 'Neurotic disorders'.
41. In his reply to the complaint Dr. Hatfield acknowledged that the Complainant was his patient but also explained that the medical advice he gave her was always in the setting of a corridor discussion and that the Complainant was not required to make formal appointments to see him as a patient.
42. Taking these factors into consideration, the Hearing Tribunal found that Dr. Hatfield's admitted conduct with respect to his Ativan prescription for the Patient breached the College's Standard of Practice regarding prescribing drugs associated with substance abuse disorder or substance-related harm. Dr. Hatfield prescribed a medication with abuse potential without undertaking and documenting a fulsome assessment and discussion of the Patient's presenting issue, considering other management options, discussing the medication fully including potential adverse effects, anticipated efficacy of the drug or adequately assessing the patient's prior medication history along with their prior history behind the chief complaint.

## **VII. PENALTY**

43. The Hearing Tribunal was provided with a written impact statement from the Patient as per section 81.1(2) of the HPA which states that the Hearing Tribunal must provide the patient with an opportunity to present any written or oral statement describing the impact that the sexual misconduct has had on her. The Hearing Tribunal admitted the impact statement into evidence as Exhibit 3 and invited counsel for the Complaints Director to read the impact statement to the Hearing Tribunal.
44. Counsel for the Complaints Director explained that both parties agreed to which portions of the original impact statement would be redacted and presented case law that provides authority for the redactions including:

- i. *R. v. Gabriel*, 1999 CanLII 15050 (ON SC);
  - ii. *Ontario (College of Physicians and Surgeons of Ontario) v. Mrozek*, 2018 ONCPSD 69 (CanLII);
  - iii. *Ontario (College of Physicians and Surgeons of Ontario) v. Phipps*, 2019 ONCPSD 45 (CanLII); and
  - iv. *Ontario (College of Physicians and Surgeons of Ontario) v. Pilarski*, 2016 ONCPSD 41 (CanLII).
45. Ms. Zimmer pointed out that the relevant case law clarifies that impact statements should describe the harm done to or the loss suffered by the victim arising from the commission of the offence, or recommendations as to the severity of punishment. Additionally, the case law supports redactions of all accusations, criticisms, and matters of opinion. She clarified that the parties did see the entirety of the impact statement and agreed to the redactions.
46. Ms. Pirie agreed the case law Ms. Zimmer provided are the same she brought forward. She stated it is clear what the limits on victim impact statement contents are and that the original victim impact statement from the Patient exceeded these limits. She agreed that the victim impact statement presented at today's hearing is within acceptable limits.
47. That concluded the evidence phase of sanctions, and the Chair then invited submissions on sanction.

### **Submissions on behalf of the Complaints Director**

48. Counsel for the Complaints Director presented the Joint Submission Agreement including a joint submission on penalty in Exhibit 2. The proposed sanction includes a reprimand, 3-month suspension with 2 months held in abeyance, requirement of successful completion of a boundaries course such as the PROBE course within a year of the Hearing Tribunal's decision, requirement to pass a course about prescribing controlled substances such as CPEP's Prescribing Controlled Drugs course and Dr. Hatfield being responsible for 75% of the costs of the investigation and hearing.
49. Ms. Zimmer also reviewed the law regarding joint submission agreements. She indicated the legal test when considering a joint submission is from the Supreme Court of Canada decision of *R. v. Anthony-Cook*, 2016 SCC 43. Here, the Court stated that a decision-maker should apply the public interest test to a joint submission on sanction. This is a very deferential test meaning the Hearing Tribunal should not depart from a joint submission unless the proposed penalty would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. She explained that for joint submissions to be possible, parties know the circumstances of the member, the behavior, and the strengths and

weaknesses of their positions and the agreement is reached with these factors in mind. She stated the parties reached the agreement with an understanding of the impact on the Patient.

50. Counsel for the Complaints Director summarized *Ontario College of Teachers v Bradley*, 2019 ONOCT 73 (CanLII), which confirmed that the public interest test applies to professional discipline matters such as this hearing and that the CPSA has consistently followed the *Anthony-Cook* case.
51. Counsel for the Complaints Director pointed out that there is guidance from the court about the approach a decision-maker should follow if they are troubled by a joint submission, including if the submission is rejected. In this case, fairness requires the parties to be allowed to make further submissions or even to decide to withdraw and proceed to a contested hearing before a new panel.
52. Counsel for the Complaints Director reviewed the factors in the decision of *Jaswal v. Medical Board (Nfld.)*, 1996 CanLII 11630 (NL SC) and how those factors applied to the present case.
53. In this case, Dr. Hatfield's conduct is factually proven, and his actions are on the higher end of the severity scale given the direct harm they brought to the Patient. This is an aggravating factor supporting a more serious sanction.
54. Dr. Hatfield is not an inexperienced physician, and he ought to have known the standards of practice as they relate to his conduct regarding appropriate boundaries to keep with patients and co-workers, and appropriate prescribing practices with respect to drugs such as Ativan and Vyvanse. This is an aggravating factor.
55. Dr. Hatfield has no prior disciplinary history with the College, and this is his first offence. This is a mitigating factor.
56. Dr. Hatfield's conduct had a significant damaging effect on the Patient, and she remains unable to work due to mental health issues.
57. Dr. Hatfield did admit his conduct and that it amounts to unprofessional conduct. This is a mitigating factor as his admission avoided the need for a contested hearing involving witness testimony.
58. There is no evidence that Dr. Hatfield has suffered serious financial or other types of consequences.
59. Dr. Hatfield's conduct had a significant damaging effect on the Patient, which she has not yet recovered from.

60. Regarding mitigating circumstances, the Complaints Director has not been provided any evidence that Dr. Hatfield has other mitigating circumstances that should be considered.
61. Deterrence is needed both specifically for Dr. Hatfield and generally for the profession. Counsel for the Complaints Director indicated the proposed sanction does provide deterrence for both Dr. Hatfield and others in the profession.
62. There is also a need to maintain the public's confidence in the medical profession's ability to self-regulate to ensure patient safety. Ms. Zimmer submitted that the agreed sanction does achieve these goals.
63. Counsel for the Complaints Director cited the following decisions in support of the Admission and Joint Submission Agreement on penalty:
  - i. *Physiotherapy Alberta - College + Association v Virdi*, 2023 ABPACA 3 (CanLII);
  - ii. *Chakravarty (Re)*, 2019 CanLII 19209 (AB CPSDC);
  - iii. *Ovueni (Re)*, 2022 CanLII 16852 (AB CPSDC);
  - iv. *Malik (Re)*, 2022 CanLII 72069 (AB CPSDC); and
  - v. *Osborne (Re)*, 2023 CanLII 116914 (AB CPSDC).
64. *Virdi* was a case of a physiotherapist who made sexual comments to a patient and was found guilty of sexual misconduct. The sanction was a 30-day suspension, requirement to complete two courses and a \$2500 fine. Ms. Zimmer submitted this is at the lower end of severity for a sanction in this type of case.
65. In 2019, Dr. Chakravarty admitted in a Hearing Tribunal to charges of touching a medical student learner and requesting that she sleep with him. His sanction was a six-month suspension, payment of 75% of the costs of the hearing, entering into a continuing care agreement with the College and prohibition of having oversight of learners.
66. In 2022, Dr. Ovueni was found guilty in a disciplinary hearing of hugging and air-kissing a patient. His sanction was a three-month suspension, a reprimand, payment of 100% of the costs of the hearing and requirement to complete a PROBE course.
67. In 2022, Dr. Malik was found guilty in a disciplinary hearing of making inappropriate sexualized comments to four female co-workers including disclosure of personal sexual details about himself, hugging two colleagues without their consent, and inappropriately prescribing antibiotics for a child of one of his colleagues whom he had never assessed or created a medical chart for. His sanction included a six-month suspension, conditions placed on his practice permit for six months, payment of 2/3 the costs of the

hearing, and writing a letter to describe his reflection and insight into the matter along with the impact on the complainants.

68. In 2023, Dr. Osborne was found guilty of failing to create a chart for a patient to whom he prescribed hydromorphone to and failing to create adequate patient records to support the prescribing of hydromorphone and failing to check or record confirmation of what prescriptions the patient had previously been dispensed. His sanction was a reprimand, requirement to complete two courses, undergoing a mandatory College individual practice review and payment of 25% of the costs.
69. Counsel for the Complaints Director concluded by submitting that the Joint Submission on sanction does satisfy the goals of deterrence for both Dr. Hatfield and the medical profession at large and rehabilitation for Dr. Hatfield and is an appropriate and justifiable regulatory response to this conduct and therefore the Hearing Tribunal should accept it.

### **Submissions on Behalf of Dr. Hatfield**

70. Counsel for Dr. Hatfield stated the agreed sanction is fair and appropriate. She agreed with Counsel for the Complaints Director's submissions. She stated the Joint Submission is an appropriate and proportional response to Dr. Hatfield's admitted conduct and does provide general and specific deterrence.
71. Ms. Pirie pointed out that Dr. Hatfield now practices in British Columbia but has undertaken to proceed with the proposed PROBE and prescribing courses in the Joint Submission. His suspension will not be activated unless he ever returns to practice medicine in Alberta.

### **Questions from the Hearing Tribunal**

72. A question arose from the Hearing Tribunal regarding costs. To date, Ms. Zimmer's estimate on accumulated costs was approximately \$9250. She stated she was not party to the negotiations regarding the costs portion of the sanction. Ms. Pirie stated it was a pure negotiation between the parties. Ms. Zimmer conferred with the Complaints Director and counsel who were involved in the costs negotiation and advised that numerous factors were considered in this respect, which are protected under settlement privilege, but did state the parties considered this issue holistically and were aware of the guidance from *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336. Ms. Zimmer stated that if the Hearing Tribunal were looking to alter the costs it would mean essentially not accepting the agreement that is being proposed and the parties would ask the indulgence of making further submissions or proceeding under a different route.
73. A question arose from the Hearing Tribunal regarding disclosure of this matter to Dr. Hatfield's new regulatory body in British Columbia. Ms.

Zimmer pointed out that the decision from this hearing would be made public, and Dr. Hatfield's conduct history in Alberta would be disclosed to his BC regulatory body and that his suspension would take effect if he ever returned to practice in Alberta. Ms. Pirie pointed out that Dr. Hatfield does have disclosure obligations to his new regulator.

74. A question arose from the Hearing Tribunal regarding the appropriateness of a suspension which would only take effect if Dr. Hatfield were to return to practice in Alberta. Ms. Zimmer pointed out that *An Act to Protect Patients* does not specify the length of suspension required in this circumstance. She also stated that all parties agreed holistically to the sanction as a whole and that the CPSA cannot apply the agreed upon suspension to another jurisdiction. Ms. Pirie noted that the offence occurred as Dr. Hatfield was exiting Alberta and that he no longer practices medicine in Alberta. Despite this, Dr. Hatfield still participated in this hearing process. Ms. Zimmer added that all parties knew Dr. Hatfield was no longer practicing in Alberta at the time the sanctions were negotiated.

### **VIII. DECISION WITH REASONS**

75. The Hearing Tribunal adjourned to carefully consider the submissions of the parties and the factors that are typically considered when determining sanction in the professional regulatory area. Both deterrence and rehabilitation are relevant factors to consider in determining whether a proposed sanction is appropriate and in the public interest.
76. The Hearing Tribunal was also mindful that significant deference is to be given to the Joint Submissions. It is the view of the Hearing Tribunal that the sanctions proposed will not bring the administration of justice in the professional regulatory context into disrepute.
77. The Hearing Tribunal considered the factors set out in *Jaswal* when determining an appropriate penalty. The Hearing Tribunal determined that the allegations were serious in nature. In recognition of the seriousness of sexual misconduct *An Act to Protect Patients* requires that a Hearing Tribunal impose a suspension as set out in section 82(1.1)(b) of the HPA.
78. Dr. Hatfield's actions towards the Patient were clearly unwelcome and have had a devastating effect on the Patient. In her complaint form and victim impact statement, the Patient outlines the devastating effect Dr. Hatfield's conduct has had on her mental health and well-being. She currently is on leave from work for mental health reasons and her pre-existing mental health issues have worsened.
79. In his reply to the complaint Dr. Hatfield stated he does not feel there was any power imbalance between him and the Patient, but the Hearing Tribunal found otherwise. In both his roles as the Patient's physician and clinic physician working within the same PCN, there was a clear power imbalance between Dr. Hatfield and the Patient.

80. The Hearing Tribunal concluded that there is a definite need to promote specific and general deterrence in this case.
81. The Hearing Tribunal considered the decisions provided by counsel for the Complaints Director and the sanctions in those decisions. The Hearing Tribunal is of the view that the sanctions proposed fall within the range of acceptable sanctions having regard to the factors set out in *Jaswal*, the case law provided, and Dr. Hatfield's admitted conduct.
82. The Hearing Tribunal considered the issue of costs and the Court of Appeal decision in *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336. The conduct at issue in this hearing is serious, and the proposal on costs was agreed to by both parties in the Joint Submission.
83. The reprimand, suspension and costs proposed are appropriate in these circumstances as a consequence for Dr. Hatfield's unprofessional conduct. The courses will provide for remediation and rehabilitation. The reprimand and suspension will also serve to remind the profession that sexual misconduct will not be tolerated.
84. For the above reasons, and in light of the recognized purposes of a sanction, the Hearing Tribunal accepts the sanctions proposed in the Joint Submission.

## **IX. ORDERS**

85. The Hearing Tribunal hereby orders pursuant to section 82 of the HPA:
  - a. Dr. Hatfield shall receive a reprimand, with the Hearing Tribunal's decision serving as the reprimand;
  - b. Dr. Hatfield's practice permit be suspended for a period of 3 months, with 2 months held in abeyance pending completion of the orders listed below in c to e;
  - c. Dr. Hatfield shall, at his own expense, participate in and unconditionally pass a boundaries course, such as the PROBE course (or a similar course acceptable to the Complaints Director) within 1 year of the Hearing Tribunal's decision;
  - d. Dr. Hatfield shall, at his own expense, participate in and unconditionally pass a course prescribing controlled substances, such as CPEP's Prescribing Controlled Drugs course (or a similar course acceptable to the Complaints Director) within 1 year of the Hearing Tribunal's decision;
  - e. Dr. Hatfield shall be responsible for 75% of the costs of the investigation and the hearing before the Hearing Tribunal; and



- f. The Hearing Tribunal shall retain jurisdiction to determine any issues arising from performance of the terms of this Order.

Signed on behalf of the Hearing Tribunal by the Chair:



Dr. Don Yee

Dated this 20th day of June, 2024.