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. EMADALDEN ALSHIGAGI

DECISION OF THE HEARING TRIBUNAL OF THE COLLEGE OF PHYSICIANS & SURGEONS OF ALBERTA

May 21, 2026

INTRODUCTION

1. The Hearing Tribunal held a hearing into the conduct of Dr. Emadalden Alshigagi ("Dr. Alshigagi") on October 27-31, 2025. The members of the Hearing Tribunal were:

    - Dr. Don Yee as Chair;
    - Dr. Randall Sargent;
    - Ms. Iqra Nazir (public member);
    - Ms. Judy Tran (public member).

2. Appearances:

    - Mr. Craig Boyer, legal counsel for the Complaints Director;
    - Dr. Emadalden Alshigagi;
    - Ms. Rose Carter KC, and Mr. Adam Blaibel, co-counsel for Dr. Alshigagi;
    - Ms. Vivian Stevenson acted as independent legal counsel for the Hearing Tribunal.

PRELIMINARY MATTERS

3. Ms. Carter presented a document entitled Admissions of Dr. Emadalden Alshigagi (the "Admissions") signed by Dr. Alshigagi. In the Admissions Dr. Alshigagi admits that he engaged in the conduct alleged in Charges 1 and 2 and Charges 3 a., b. and c., comprising 15 of the 18 allegations against him.

4. Ms. Carter stated that pursuant to the *Health Professions Act (*"**HPA***")*, at any time after a complaint is made but before a hearing tribunal renders a decision as to whether or not unprofessional conduct has occurred, an investigated member may submit a written admission of unprofessional conduct to the Hearings Director. Ms. Carter advised the Hearing Tribunal that such an admission could not be acted upon unless it was acceptable in whole or in part to the Hearing Tribunal.

5. Ms. Carter submitted that if the Hearing Tribunal accepted the Admissions it could hold a hearing to decide whether the admitted conduct is unprofessional conduct. However, she said that Dr. Alshigagi had already admitted that. Ms. Carter advised that there were three allegations that were not admitted and she was prepared to proceed with respect to those three matters.

6. Ms. Carter then advised the Hearing Tribunal of the advantages of admissions in the hearing process in terms of reducing the cost of a hearing and the requirement to call witnesses (*Chakravarty (Re)* and *Prevost (Re)*). In those cases, the Discipline Committees had acknowledged that admissions

had reduced the cost of the hearing, the need to call evidence and minimized stress for victims and witnesses.

7. Ms. Carter asked the Hearing Tribunal to accept the Admissions and proceed only with a hearing about the remaining allegations. She submitted that this would shorten the hearing and serve the administration of justice by minimizing cost. Costs were an important factor because at the end of the hearing it is always argued that the costs of the hearing should be assigned to the investigated member facing the allegations.

8. Mr. Boyer did not object to the Admissions being marked Exhibit 2 but stated that since the Hearing Tribunal had not seen any documents and counsel were not able to reach an agreement on an exhibit book, he would need to have the relevant records marked as exhibits through his witnesses. He advised that the witnesses would focus on the central issue of the hearing, being the alleged sexual relationship between Dr. Alshigagi and the Complainant.

9. Ms. Carter objected to the manner in which Mr. Boyer intended to proceed. She stated that Charges 3 d. to f. are a "he said, she said" issue, there was no need for witnesses to be called to speak to what was in the exhibits and she objected to Mr. Boyer calling every witness to talk about what had already been agreed to by Dr. Alshigagi.

10. The Hearing Tribunal adjourned to consider counsels' submissions. The Hearing Tribunal had no information before it at the outset of the hearing other than the Notice of Hearing. Accordingly, the Hearing Tribunal had a very limited context within which to consider the Admissions. The Hearing Tribunal did not feel comfortable accepting the Admissions without some factual basis against which to assess them and be satisfied the admitted conduct was unprofessional conduct.

11. The Hearing Tribunal considered it appropriate to allow Mr. Boyer to proceed with the evidence he intended to call, particularly given Mr. Boyer's advice that his witnesses would focus on the central issue of the sexual relationship which is the subject of disputed Charges 3 d. to f.

12. The Admissions were marked as Exhibit 2.

13. The Hearing Tribunal considered it appropriate to note in this section that during the course of the hearing the Chair became aware that his employer had leased clinic space at Dr. Alshigagi's clinic. The Chair advised the parties of this fact, and that he had no part in the negotiations to secure the lease and had never met Dr. Alshigagi prior to the hearing. Counsel for both parties confirmed that this information did not cause them any concerns with respect to a potential conflict of interest.

CHARGES

14. The Notice of Hearing listed the following allegations:

    1. During the period of February 2019 to February 2023, you did demonstrate a lack of knowledge or lack of skill or judgement in the provision of professional services to your patient, [redacted], particulars of which include one or more of the following;

        a. Continued prescribing of medications known for risk of abuse or addiction while the patient was receiving similar medications from other physicians as would be known from accessing NetCare and online pharmacy prescribing history;

        b. Adding medications or increasing dosages as requested by the patient without any communication with the patient's family physician, Dr. [redacted];

        c. Continued prescribing of medications known for risk of abuse or addiction to a patient with a history of substance abuse;

        d. Sending prescriptions for medications known for risk of abuse or addiction to multiple pharmacies as requested by your patient with the effect of avoiding detection.

    2. The patient record that you created for your patient, [redacted], failed to meet the minimum standard of charting, including the CPSA Standard of Practice on Patient Record Content, particulars of which include one or more of the following;

        a. Symptoms reported by the patient were not addressed;

        b. Objective assessments not documented;

        c. Mental health examinations not documented;

        d. Details of medication refills not documented;

        e. No documentation in the contemporaneous patient visit notes if a chaperone was present;

        f. No documentation of concern about or discussion with patient about patient receiving same or similar medications of potential abuse or addiction from another physician, i.e., double doctoring and medication abuse;

        g. No documentation of discussion with patient about concern for risk of serotonin syndrome;

h. No documentation of drug testing results or discussion of results with the patient;

3. During the period of February 2019 to February 2023 you did fail to maintain an appropriate professional boundary with your patient, [redacted], particulars of which include one or more of the following;

   a. You exchanged text messages with your patient for personal reasons,

   b. You gave money to your patient on multiple occasions,

   c. You kissed and hugged your patient on one or more occasions,

   d. You asked or allowed your patient to perform oral sex on you at your clinic, and such conduct being sexual abuse under the *Health Professions Act*, and

   e. You attempted to have sexual intercourse with your patient at your clinic, and such conduct being sexual abuse under the *Health Professions Act,* and

   f. You had sexual intercourse with your patient on one or more occasions, and such conduct being sexual abuse under the *Health Professions Act*.

EVIDENCE

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

Exhibit 1 NOTICE OF HEARING

Exhibit 2 ADMISSIONS OF DR. EMADALDEN ALSHIGAGI

Exhibit 3 2023-08-08 COMPLAINT FORM BY DR. [redacted]

Exhibit 4 TRANSCRIPT OF VIDEO RECORDING - PAGES 2 – 7

Exhibit 5 2023-08-07 COMPLAINT FORM BY [redacted]

Exhibit 6 VIDEO RECORDING 1 OF FEBRUARY 23, 2023 VISIT - 10 MINUTES

Exhibit 7 TRANSCRIPT OF VIDEO RECORDING 1 OF FEBRUARY 23, 2023 VISIT - 10 MINUTES

Exhibit 8 VIDEO RECORDING 2 OF FEBRUARY 23, 2023 VISIT - 5 MINUTES

Exhibit 9 SCREENSHOTS OF E-TRANSFERS FROM DR. ALSHIGAGI TO [redacted]

Exhibit 10 TEXT MESSAGES BETWEEN [redacted] AND DR. ALSHIGAGI - JANUARY TO JULY

Exhibit 11 MISERICORDIA COMMUNITY HOSPITAL RECORD - JANUARY 28, 2020 (FOUR PAGES)

Exhibit 12 2025-09-04 TRANSFER OF LAND

Exhibit 13 2025-09-04 CERTIFICATE OF TITLE

Exhibit 14 ROYAL ALEX HOSPITAL OPERATIVE NOTE DATED OCTOBER 15, 2016

Exhibit 15 2023-12-19 FAX FROM DR [redacted] WITH PATIENT RECORDS

Exhibit 16 CURRICULUM VITAE OF DR. [redacted]

Exhibit 17 2024-02-04 EXPERT OPINION OF DR. [redacted]

Exhibit 18 CMA CODE OF ETHICS AND PROFESSIONALISM

Exhibit 19 2023-08-11 CPSA LETTER TO DR. ALSHIGAGI - COMPLAINT NOTIFICATION

Exhibit 20 LETTER OF RESPONSE BY DR. ALSHIGAGI, UNDATED

Exhibit 21 PATIENT RECORD FOR [redacted]

Exhibit 22 ALBERTA HEALTH CARE BILLING CLAIMS RE [redacted]

Exhibit 23 2024-11-21 TRANSCRIPT OF INTERVIEW WITH [redacted]

Exhibit 24 COPIES OF TEXT MESSAGES FROM [redacted]

Exhibit 25 2024-04 UNDATED SCRIPT

Exhibit 26 TRANSCRIPT OF WHATSAPP RECORDING

Exhibit 27 TRANSCRIPT OF CONVERSATION BETWEEN DR. ALSHIGAGI AND [redacted] BEFORE HER INTERVIEW

Exhibit 28 2024-11 [redacted] - [redacted] TEXTS

Exhibit 29 EMR AUDIT LOG FOR [redacted] CHART - GENERATED FEBRUARY 5, 2025

Exhibit 30 2024-03-19 EMAIL FROM DR. ALSHIGAGI TO [redacted]

Exhibit 31 2024-04-23 LETTER FROM DR. ALSHIGAGI TO OPIOID CLINIC

Exhibit 32 CPSA STANDARD OF PRACTICE - PRESCRIBING: DRUGS ASSOCIATED WITH SUBSTANCE USE DISORDERS OR SUBSTANCE-RELATED HARM

Exhibit 33 CPSA STANDARD OF PRACTICE - BOUNDARY VIOLATIONS: SEXUAL

Exhibit 34 2024-01-12 ALBERTA HEALTH LETTER WITH NETCARE RECORDS 2018 TO 2023

Exhibit 35 AUDIO RECORDING OF MESSAGE FROM DR. ALSHIGAGI IN WHATSAPP BEFORE INTERVIEW

Exhibit 36 AUDIO RECORDING OF CONVERSATION WITH DR. ALSHIGAGI BEFORE THE INTERVIEW ON APRIL 26

Exhibit 37 [redacted] INVESTIGATION REPORT - MARCH 27, 2024

Exhibit 38 CERTIFICATE OF COMPLETION - RECORD KEEPING

Exhibit 39 10-31-23 LETTER FROM DR. [redacted] TO DR. ALSHIGAGI

Exhibit 40 PROBE PROGRAM CERTIFICATE OF COMPLETION

Exhibit 41 09-13-2023 UNDERTAKING OF DR. ALSHIGAGI (RE CHAPERONE AGREEMENT)

Exhibit 42 IPR LETTER - MARCH 7, 2024

Exhibit 43 UNDERTAKING OF DR. ALSHIGAGI DATED APRIL 29, 2024 (RE PRESCRIBING)

Exhibit 44 CONTINUING COMPETENCY AGREEMENT

Exhibit 45 09-3-25 LETTER FROM DR. [redacted] REGARDING MENTORSHIP

Exhibit 46 SCREENSHOTS FROM HEALTHQUEST CHART NOTE SYSTEM

Exhibit 47 2013-10-04 UNDERTAKING OF DR. ALSHIGAGI (RE CHAPERONE AGREEMENT)

Exhibit 48 2013-10-26 CERTIFICATE OF CME - PROFESSIONAL BOUNDARIES WORKSHOP

Exhibit 49 2014-03-19 UNDERTAKING OF DR. ALSHIGAGI FOR CHAPERONE -3 YEAR TERM

Exhibit 50 GLOBAL NEWS ARTICLE ENTITLED 'ALBERTANS WAKE UP TO HEAVY SNOW, 'SECOND WINTER' SATURDAY

Exhibit 51 03-20-2014 LETTER FROM CPSA RE UNDERTAKING

Exhibit 52 06-15-2016 LETTER FROM [redacted], WITH ATTACHED CERTIFICATE OF COURSE COMPLETION

Exhibit 53 06-27-2016 LETTER FROM [redacted]

Exhibit 54 09-20-13 COMPLAINT

16. The Hearing Tribunal also heard from a number of witnesses, including Dr. Alshigagi. The evidence from those witnesses is summarized in conjunction with the allegations to which they relate.

17. The list of witnesses called and a brief summary of what their evidence relates to includes:

- Dr. [redacted] ("Dr. [redacted]"): She was the admitting physician for the Complainant, Ms. [redacted], at Ms. [redacted] August 2023 detox admission. Her evidence related to Ms. [redacted] disclosure to her regarding a sexual relationship Ms. [redacted] had with her physician.

- Ms. [redacted] ("Ms. [redacted]"): She is the Complainant. Her evidence related to most of the allegations in the Notice of Hearing. She provided evidence relating to her version of events surrounding the alleged sexual relationship she had with her treating physician Dr. Emadalden Alshigagi.

- Dr. [redacted] ("Dr. [redacted]"): He was Ms. [redacted] family physician before Dr. Alshigagi accepted Ms. [redacted] as a patient and is Ms. [redacted] current family physician. His evidence related to the circumstances surrounding Ms. [redacted] leaving his practice and her eventual return to his practice. He also commented on Ms. [redacted] current state of health.

- Dr. [redacted] ("Dr. [redacted]"): She is the Expert retained by the CPSA. Her evidence focused on her expert analysis of Dr. Alshigagi's prescribing practice and charting quality for Ms. [redacted].

- Mr. [redacted] ("Mr. [redacted]"): He is the CPSA Investigator who authored the Investigation Report for Ms. [redacted] complaint. His evidence related to his investigation into the complaint.

- Ms. [redacted] ("Ms. T. [redacted]"): She is one of the Medical Office Assistants ("MOA"s) in Dr. Alshigagi's clinic. Her evidence related to the use of chaperones in Dr. Alshigagi's clinic, and her recollection of Ms. [redacted] as a patient of Dr. Alshigagi's and of her former colleague Ms. K[redacted].

- Dr. Emadalden Alshigagi: He is the physician with whom Ms. [redacted] indicated she had a sexual relationship during the time she was his patient. His evidence related to all of the allegations including the alleged sexual relationship he had with Ms. [redacted] during the time he served as her family physician.

- [redacted]: He was called to testify by counsel for Dr. Alshigagi and his evidence related to how he knew Ms. [redacted] and Dr. Alshigagi. He described how he introduced Ms. [redacted] to Dr. Alshigagi.

- Ms. [redacted] ("Ms. [redacted]"): She is another MOA in Dr. Alshigagi's clinic. Her evidence related to the use of chaperones in Dr. Alshigagi's clinic, her recollection of Ms. [redacted] during the time she was a patient at the clinic and her former colleague Ms. K[redacted].

ANALYSIS OF ALLEGATIONS AND DECISIONS ON CHARGES 1 AND 2

18. This section of the Decision is organized by allegation in the order set out in Notice of Hearing. Each allegation is followed by a summary of the relevant evidence. Where a witness gave evidence relevant to more than one allegation, the relevant portions of their evidence are summarized for each related corresponding allegation. Following each summary, the Hearing Tribunal sets out its analysis of the evidence and findings with respect to each allegation and reasons for the findings.

19. Part of the Hearing Tribunal's analysis included an assessment of the credibility of each witness called to provide evidence, which is set out in this Decision.

a. The First set of Allegations

IT IS CHARGED:

1. During the period of February 2019 to February 2023, you did demonstrate a lack of knowledge or lack of skill or judgement in the provision of professional services to your patient, [redacted], particulars of which include one or more of the following:

a. Continued prescribing of medications known for risk of abuse or addiction while the patient was receiving similar medications from other physicians as would be known from accessing NetCare and online pharmacy prescribing history;

b. Adding medications or increasing dosages as requested by the patient without any communication with the patient's family physician, Dr. [redacted];

c. Continued prescribing of medications known for risk of abuse or addiction to a patient with a history of substance abuse;

d. Sending prescriptions for medications known for risk of abuse or addiction to multiple pharmacies as requested by your patient with the effect of avoiding detection.

20. In the Admissions (Exhibit 2), Dr. Alshigagi admitted to the conduct set out in allegations 1 a. to d. and his conduct demonstrated a lack of knowledge or lack of skill or judgement in the provision of professional services to his patient, Ms. [redacted].

21. Dr. Alshigagi's patient record relating to Ms. [redacted] (Exhibit 21) and his billing claims (Exhibit 22) are relevant to these allegations. Among other things, these exhibits contain information regarding the prescriptions that Dr. Alshigagi issued to Ms. [redacted] at various times in 2019, 2020, 2021 for several different medications including benzodiazepines (Ativan, temazepam, clonazepam) and opioids (Tramacet).

22. The Hearing Tribunal also heard oral testimony about the medications prescribed by Dr. Alshigagi to Ms. [redacted] while she was his patient. Dr. [redacted], an expert retained by the CPSA, provided opinion evidence about Dr. Alshigagi's prescribing practice. The Hearing Tribunal also heard from Ms. [redacted] and Dr. Alshigagi regarding the medications prescribed by Dr. Alshigagi and the circumstances in which the medications were prescribed.

Dr. [redacted]

23. Dr. [redacted] has been practicing as a family physician for over 30 years. She practices a broad scope in family medicine and acts as a clinical mentor for medical students and family medicine residents.

24. Dr. [redacted] was qualified by Mr. Boyer as an expert witness to provide opinion evidence on family medicine, including the appropriate boundary between doctor and patient. Her qualifications were not contested.

25. Exhibit 17 is Dr. [redacted]'s written expert opinion regarding aspects of the care Dr. Alshigagi provided to Ms. [redacted], including his prescribing to Ms. [redacted] between 2019-2023 and whether Dr. Alshigagi met the expected standard of care in this regard.

26. Dr. [redacted] testified orally about a number of matters. Ms. Carter objected to Dr. [redacted] giving evidence about Dr. Alshigagi's prescribing patterns on the basis that Dr. Alshigagi had admitted the allegations regarding his

prescribing habits and his record keeping. Mr. Boyer advised that he was providing the evidentiary basis that the Hearing Tribunal had indicated it was looking for and did not intend to pursue the evidence at any great length.

27. Ms. Carter then indicated that she had no problem with proceeding with Dr. [redacted]'s evidence as long as the evidence was somewhat limited. She again referenced the potential costs implications to Dr. Alshigagi.

28. The Hearing Tribunal was not prepared to impose any limitations on Dr. [redacted]'s testimony because it had not yet accepted the Admissions and had not received a copy of Dr. [redacted]'s report before the hearing. The Hearing Panel indicated it was live to the costs concerns raised by Ms. Carter and would address costs concerns when and as appropriate.

29. Dr. [redacted] was generally critical of Dr. Alshigagi's prescribing practices for Ms. [redacted]. In Dr. [redacted]'s opinion he prescribed numerous medications with potential for misuse without following accepted standards for documentation. There was also a lack of documentation of the appropriate assessment of symptoms, possible side effects at a specific dose or physical examinations of Ms. [redacted]. Prescriptions were provided without documentation of a discussion of double-doctoring or positive drug testing for opioid misuse.

30. Dr. [redacted] also stated there was a repetitive pattern of Ms. [redacted] specifying a drug and at times the dose she wanted, and Dr. Alshigagi providing it.

31. Dr. [redacted] noted that Dr. Alshigagi sent high-risk medication prescriptions to differing pharmacies at Ms. [redacted] request, which appeared to have the purpose of avoiding detection. Dr. Alshigagi communicated with Ms. [redacted] through texts regarding prescription requests and personal meet ups. Some texts contained negotiations about drug doses to be prescribed. The text messages included requests for medications at specific doses mixed with personal topics. Dr. [redacted] referred to Dr. Alshigagi's admission in his response to the CPSA that he gave Ms. [redacted] money to avoid her telling his wife about their affair. Dr. [redacted] stated this further emphasized the inappropriateness of every prescription.

32. In her expert report, Dr. [redacted] noted that Dr. Alshigagi would have been aware of Ms. [redacted] addictions issues, as he stated in his response to the complaint that he saw these issues documented in Ms. [redacted] Netcare file. He therefore would have been aware that Ms. [redacted] had a different provider (Dr. [redacted]). She noted Dr. Alshigagi provided several prescriptions for different medications for different issues. Particularly worrisome were the prescriptions for anxiety (Ativan, clonazepam, diazepam), sleep (Sublinox), and attention deficit hyperactivity disorder ("ADHD") (Concerta and Vyvanse).

33. Dr. [redacted] was critical of Dr. Alshigagi for providing multiple stimulant medications at high doses despite Ms. [redacted] known active substance use

disorder. She stated Dr. Alshigagi's practice in this regard goes against standard guidelines for individuals with active substance use disorder and concurrent ADHD. Additionally, Dr. [redacted] criticized Dr. Alshigagi for providing multiple prescriptions upon request from Ms. [redacted] for Sublinox and benzodiazepines without any documentation of a tapering plan.

34. Dr. [redacted] also noted there were times Dr. Alshigagi provided prescriptions for benzodiazepines to Ms. [redacted] when another prescriber was giving her tapering prescriptions, effectively disrupting the tapering process. For instance, on August 19, 2021, Dr. Alshigagi's chart note states "Netcare checked and no sign of misuse". He prescribed lorazepam and Sublinox that day when both had recently been prescribed by another physician and the lorazepam had been prescribed as a taper to stop.

35. Dr. [redacted] identified evidence that Dr. Alshigagi ordered urine drug testing on Ms. [redacted] which came back positive for street drugs such as fentanyl but at clinic visits following the positive tests there is no documentation of these results and continued prescriptions were issued for non-opioid medications with a potential for misuse. She said that Dr. Alshigagi was also notified at least twice by two separate pharmacies regarding concerns about double-doctoring but there are no chart notes documenting any discussion with Ms. [redacted] about this concern.

36. Dr. [redacted] stated that management of substance use disorder with other diagnoses is complex. She considered Dr. Alshigagi adding prescriptions at the request of Ms. [redacted] without any correspondence with Dr. [redacted] to be inappropriate and likely harmful and added that if patients are seeking multiple prescriptions from different providers, then the risk of abuse is high.

37. Dr. [redacted] stated that standard guidelines recommend that individuals with active substance use disorder should be treated for the co-occurring substance use disorder until stabilized prior to treating ADHD. Here the Netcare medication lists show that Dr. Alshigagi prescribed high risk medications contrary to the standard guidelines. Dr. Alshigagi's prescribing of stimulant drugs for ADHD did not follow this standard guideline in that he provided multiple stimulant prescriptions for Concerta and Vyvanse.

38. Dr. [redacted] said that if medication is required, it is recommended to use a non-stimulant medication given the risk for misuse with stimulants. Ms. [redacted] was given multiple stimulant prescriptions for Concerta and Vyvanse. She was often prescribed maximum doses rather than the minimum as recommended. This was done despite her known substance use disorder.

39. Dr. [redacted] also pointed out that Sublinox and any benzodiazepine are well known for association with substance related harm. There are guidelines that indicate immediately stopping this class of medication can add to harm. However, Dr. Alshigagi gave multiple prescriptions at the request of Ms. [redacted] without any documentation of a tapering plan.

40. Dr. [redacted] pointed out that Shoppers Drug Mart had contacted Dr. Alshigagi on September 10, 2019 with a concern of potential QT prolongation resulting from combining the Seroquel with Cipralex. Additionally, Dr. Alshigagi ordered urine drug tests for opioids dated December 10, 2020, February 3, 2021, and November 27, 2022 which were are all positive for street opioids such as fentanyl. On visits following the results, there is no documentation of these results or any discussion about them and Dr. Alshigagi continued to prescribe non-opioid drugs with a risk for misuse.

41. Dr. [redacted] also pointed out that London Drugs contacted Dr. Alshigagi on October 7, 2022 to advise that Ms. [redacted] was receiving double prescriptions of Vyvanse from him and Dr. [redacted]. The subsequent chart notes do not document any discussion with Ms. [redacted] regarding concern of double doctoring.

42. Dr. [redacted] pointed out that Dr. Alshigagi was contacted again by a pharmacy on February 24, 2023 to indicate that Ms. [redacted] had already been dispensed 60mg Vyvanse from another physician and wanting clarification before releasing 70mg tablets. Dr. Alshigagi advised releasing 10 mg tablets only to bring her dose to 70mg a day. There is no documentation that he had a discussion with Ms. [redacted] about a concern of double-doctoring in this instance.

43. Dr. [redacted] concluded Dr. Alshigagi's prescribing pattern is consistent with a patient requesting medication for mental health concerns such as anxiety and ADHD and the physician complying with the request. The medications given were generally high-risk drugs for misuse. Dr. Alshigagi clearly knew Ms. [redacted] was getting prescriptions from other physicians and did not document any concerns with this.

44. Dr. [redacted] concluded that Dr. Alshigagi's prescribing practices did not meet the expected standard. Dr. Alshigagi prescribed numerous medications with potential for misuse. He did not follow accepted standards for documentation. He continued to prescribe and did not document any discussion with the patient regarding positive drug tests for opioid misuse.

45. Dr. [redacted] noted that zolpidem and benzodiazepines are well known for association with substance related harm. However, Dr. Alshigagi provided these prescriptions with no documentation of a tapering plan. Specifically, on August 19, 2021, Netcare records show that Dr. Alshigagi prescribed lorazepam and Sublinox when both had recently been prescribed and the lorazepam had been prescribed as a taper to stop by another physician.

46. The Hearing Tribunal found Dr. [redacted] to be a credible expert and accepted her evidence. She was qualified and knowledgeable in her expert assessment of Dr. Alshigagi's prescribing practice for Ms. [redacted] and provided helpful insight into the proper prescribing of drugs with abuse potential for

patients who have ADHD concurrent with ongoing addictions issues. The Hearing Tribunal found that Dr. [redacted] provided a thorough, objective and compelling expert opinion of Dr. Alshigagi's prescribing practice for Ms. [redacted].

Ms. [redacted]

47. Ms. [redacted] testified that she would ask Dr. Alshigagi for prescriptions and money and Dr. Alshigagi would provide what she asked for. A series of texts between Dr. Alshigagi and Ms. [redacted] was entered as Exhibit 10. In these texts, Ms. [redacted] requests prescriptions for medications (fluoxetine, Vyvanse) at specific doses to be sent to specific pharmacies and Dr. Alshigagi indicates that he will do as she asks. Ms. [redacted] verified these texts were screenshots from her phone. Dr. Alshigagi did not deny that the texts in Exhibit 10 were exchanged between him and Ms. [redacted].

48. The Hearing Tribunal accepted Ms. [redacted] evidence regarding Dr. Alshigagi's prescribing practice for her, and that he would prescribe the medications she requested in the amounts she requested. This evidence is consistent with the documentary evidence. The Hearing Tribunal provides further comments on the credibility of Ms. [redacted] generally in the analysis of evidence relating to Charge 3 and its particulars.

Dr. Alshigagi

49. As previously outlined, Dr. Alshigagi admitted that he engaged in the conduct referred to in Charge 1. He testified that during the time Ms. [redacted] was his patient he never received notification from the College about double-doctoring in relation to her. He also testified that there was no overlapping in Ms. [redacted] prescriptions and that although he did not chart it, he discussed double-doctoring with her.

50. Dr. Alshigagi was referred to the video of Ms. [redacted] last attendance at his clinic in February of 2023 (Exhibit 8). He said that his discussion with Ms. [redacted] about her medications at that visit was a typical interaction. He said she was requesting refills because her medication was going to run out. He said she had been on Vyvanse for a long time and the medications she requested were her regular medications.

51. Dr. Alshigagi pointed out that Ms. [redacted] had texted him to ask for a refill, but he had asked her to come to the clinic for her prescription because he had not seen her for a while. He stated he knew she had been using this medication for a long time and felt it was safe to increase the dose as patients can develop a tolerance. He also noted that he had only given her 10 mg of Vyvanse to increase her dose to 70 mg, without causing an overlap with the 60 mg already prescribed which still had a week left.

52. Dr. Alshigagi stated that during the visit he was looking at Netcare while he was talking to Ms. [redacted] which is how he knew she had a week left on her prescription. He denied that he gave her whatever prescription she asked for. He testified about his call with the pharmacy and the fact her previous prescription was from a walk-in physician and not her family doctor. He said he could not stop a patient from visiting a walk-in doctor. Dr. Alshigagi also noted that at the February 23, 2023 clinic visit, Ms. [redacted] wanted more than 2 weeks of medications, and he had refused and also imposed some dispensing restrictions.

53. Dr. Alshigagi stated he verified information provided by Ms. [redacted] with the information on her Netcare file. He decided to give her a 2-week supply of medications and contacted the pharmacy to confirm the prescription. The pharmacy sent written confirmation back to verify Dr. Alshigagi intended the Vyvanse dose increase. The pharmacy advised Dr. Alshigagi that Ms. [redacted] had recently filled a Vyvanse prescription from another doctor at a walk-in clinic. Ultimately Dr. Alshigagi ordered release of a one-week supply of Vyvanse.

54. Dr. Alshigagi also gave a prescription for Sublinox (zolpidem). The transcript of this visit confirms that Dr. Alshigagi asked Ms. [redacted] about how she was doing on the Vyvanse and some possible side effects. The transcript does not disclose any discussion of side effects of other prescribed drugs. Dr. Alshigagi said he would ask Ms. [redacted] about side effects during visits, but this is not charted because the note on the chart is templated.

55. Dr. Alshigagi testified that he told Ms. [redacted] verbally many times she should not refill prescriptions before she finished them but did not chart this advice.

56. With reference to the February 23, 2023 visit and his interaction with Ms. [redacted] on that date about her prescriptions, Dr. Alshigagi said he asked her which pharmacy to send her prescription to because she had two pharmacies in Edmonton and one outside of Edmonton. He said he advised her to have only one pharmacy but he could not control a patient's request or a request from a pharmacy. Because he knew she had multiple pharmacies, he said he needed to know which one to send the prescription to. Dr. Alshigagi stated it is a patient's right to ask for specific refill medications and specify quantity.

57. Dr. Alshigagi denied he simply supplies a prescription requested by a patient, saying he always checks the patient's background prescriptions and assesses the current clinical situation.

58. Dr. Alshigagi confirmed in his testimony that he did not communicate with Dr. [redacted] about Ms. [redacted]. Dr. Alshigagi testified he saw no reason to communicate with Dr. [redacted] during the time he was providing care to Ms. [redacted] as Dr. Alshigagi knew all the facts and the medications he was prescribing were regular medications for her. He said he saw no misuse of medication and saw no need to call Dr. [redacted]. He also added he had the

impression from Ms. [redacted] that she had stopped seeing Dr. [redacted] in 2020. He said that he was the only prescriber for some of her medications.

59. Dr. Alshigagi testified that he only agreed to act as Ms. [redacted] physician for emergencies. The records, including Exhibit 21 show that Dr. Alshigagi regularly provided Ms. [redacted] with multiple prescriptions for drugs with abuse potential including over a period of years while she was his patient.

60. Dr. Alshigagi said that in 2019 he was under the impression that he was doing the best he could to decrease harm from prescriptions by confirming there were no overlaps and by not giving more than 30 days of any medication. He conceded that what he was doing had not been right and there were things he missed and did not do. He said he is more knowledgeable now.

61. He also said that now he increases and decreases medications based on the situation, not what the patient is requesting. He said he understands it was not appropriate to continue prescribing benzodiazepine medications and he has increased his knowledge about this and about addiction.

62. He stated he did send prescriptions for Ms. [redacted] to different pharmacies, but this was upon request from the pharmacist and not the patient.

Decision Regarding Charge 1

63. As noted at the outset, Dr. Alshigagi admitted all of the allegations in relation to Charge 1.

64. The CPSA Standard of Practice Prescribing: Drugs Associated with Substance Use Disorders or Substance-related Harm states a regulated member must be able to justify prescribing decisions with documentary evidence of a patient's initial assessment and reassessments as required, including when accepting the transfer of care of a patient from another healthcare provider. Additionally, at time of initial assessment, a regulated member must discuss and determine with the patient the best medication choice considering the:

    a. efficacy of other pharmacological and non-pharmacological treatment options;
    b. common and potentially serious side effects of the medication; and
    c. probability the medication will improve the patient's health and function.

65. Dr. Alshigagi provided Ms. [redacted] with repeated prescriptions for multiple different drugs with the potential for misuse against a clinical backdrop of a known history of addictions issues. The prescriptions were provided with Dr. Alshigagi's knowledge of Ms. [redacted] prior addictions issues and that she was receiving prescriptions for similar drugs from other providers. The Hearing

Tribunal considered Ms. [redacted] medical chart consistent with other evidence that Dr. Alshigagi provided prescriptions upon a simple request from Ms. [redacted] without a properly documented clinical evaluation of her current clinical circumstances, the appropriateness of the medication and consideration of other therapeutic/management alternatives.

66. The Hearing Tribunal notes that although Dr. Alshigagi denied simply giving Ms. [redacted] the medications she asked for, he also testified that he had changed his practice now to prescribe based on the situation and not what the patient wanted. Dr. Alshigagi's evidence on this point was also inconsistent with the content of the text messages marked as Exhibit 10.

67. The Hearing Tribunal was also concerned about Dr. Alshigagi's statements to the effect that a patient has a right to request refills of their regular medications.

68. Dr. Alshigagi confirmed that prior to the present complaint, the CPSA raised a concern about his prescribing of controlled substances. This led to Dr. Alshigagi's involvement in a CPSA-directed Individual Practice Review process (IPR) which included Dr. Alshigagi undertaking a formal prescribing course.

69. The Hearing Tribunal also noted that Dr. Alshigagi testified that prior to implementation of the current prescribing restrictions on his practice permit, Dr. Alshigagi's patient panel had many complex patients, and a large part of his practice featured patients who were taking drugs with abuse potential.

70. Given these circumstances the Hearing Tribunal is satisfied that when Dr. Alshigagi agreed to act as Ms. [redacted] physician, her medical profile and complexity were not novel to Dr. Alshigagi. Dr. Alshigagi knew or ought to have known the importance of proper prescribing practice for a patient with Ms. [redacted] medical profile.

71. Dr. [redacted] detailed the shortcomings in Dr. Alshigagi's prescribing for Ms. [redacted]. For a patient with known a substance abuse history, Dr. Alshigagi prescribed several medications with abuse potential based mostly on patient requests for specific drugs and specific doses. Important considerations such as tapering schedules, positive drug tests, evidence of other physicians providing redundant prescriptions, concerns raised by pharmacies, and treating concurrent ADHD in a patient with known substance abuse disorder were not adequately undertaken by Dr. Alshigagi.

72. The Hearing Tribunal found that Dr. Alshigagi's departure from the expected standard of care in this clinical setting was a significant one. Additionally, his inappropriate pattern of prescribing practice was not an incidental one-off occurrence but instead a systemic pattern which consistently occurred during the years he acted as Ms. [redacted] physician.

73. Having had the opportunity to review the Exhibits and hear the testimony of the relevant witnesses, the Hearing Tribunal is prepared to accept the Admissions as they relate to Charge 1 under section 70 of the HPA.

74. The Hearing Tribunal is satisfied that the conduct in question is unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA as Dr. Alshigagi's conduct is a significant breach of the CPSA Standard of Practice Prescribing: Drugs Associated with Substance Use Disorders or Substance-related Harm. Additionally, this admitted conduct amounts to unprofessional conduct pursuant to section 1(1)(pp)(xii) of the HPA as it is conduct that harms the integrity of the medical profession.

b. The Second set of Allegations

IT IS CHARGED:

2. The patient record that you created for your patient, [redacted], failed to meet the minimum standard of charting, including the CPSA Standard of Practice on Patient Record Content, particulars of which include one or more of the following;

a. Symptoms reported by the patient were not addressed;

b. Objective assessments not documented;

c. Mental health examinations not documented;

d. Details of medication refills not documented;

e. No documentation in the contemporaneous patient visit notes if a chaperone was present;

f. No documentation of concern about or discussion with patient about patient receiving same or similar medications of potential abuse or addiction from another physician, i.e., double doctoring and medication abuse;

g. No documentation of discussion with patient about concern for risk of serotonin syndrome;

h. No documentation of drug testing results or discussion of results with the patient;

75. In the Admissions (Exhibit 2) Dr. Alshigagi admitted to the conduct set out in Charges 2 a. to h. and that his conduct failed to meet the minimum standard of charting, including the CPSA Standard of Practice on Patient Record Content.

76. A portion of Dr. [redacted]'s written expert opinion and testimony related to Dr. Alshigagi's medical charting for Ms. [redacted]. Dr. Alshigagi also testified with respect to his charting.

77. The Hearing Tribunal also heard evidence specifically in relation to the charting of chaperone attendances in Dr. Alshigagi's patient records. Ms. T. [redacted] and Ms. [redacted] gave evidence related to their experiences chaperoning for Dr. Alshigagi and the clinic practice for charting chaperone involvement in clinic visits.

78. Mr. [redacted] is the CPSA investigator who wrote the Investigation Report arising from the complaint made about Dr. Alshigagi. A portion of his evidence related to Dr. Alshigagi's Electronic Medical Record ("EMR") and patient chart for Ms. [redacted], including chaperone notes.

Dr. [redacted]

79. In response to a question from the Hearing Tribunal requesting her opinion of Dr. Alshigagi's charting, Dr. [redacted] stated Dr. Alshigagi's chart notes were extremely scant in all circumstances for Ms. [redacted]. Numerous prescriptions for mental health medications were provided without documentation of a proper pertinent mental health assessment or management plan. Dr. [redacted] saw many prescriptions provided to Ms. [redacted] by multiple prescribing physicians and noted that this care structure is not in the best interests of the patient.

80. Dr. [redacted] stated that Dr. Alshigagi's level of charting in his chart for Ms. [redacted] would not be acceptable from a family medicine trainee. She noted that his clinical notes contain vague comments and are devoid of a cumulative patient profile.

81. Dr. [redacted] provided further elaboration of her evaluation of Dr. Alshigagi's charting in her expert report:

> *Serotonin uptake inhibitors such as Prozac can increase the risk of serotonin syndrome, another serious side effect when multiple medications are prescribed.*
>
> *The Shoppers Drug Mart pharmacy contacted Dr Alshigagi on Sept 10, 2019, with concern of risk of combing the medication ie. QT prolongation (this can lead to arrhythmia) with the combination of Seroquel and Cipralex. There is no mention of this concern or any concern about the risk of serotonin syndrome with the patient in the chart notes.*
>
> *In the visit notes there is an opioid treatment agreement signed on Nov 28, 2020, stating that opioid prescriptions will all be done with Dr Alshigagi. But from Netcare records he did not take this over and it appears the OUD clinic was prescribing Methadone during this time with Dr [redacted], the family physician taking over prescribing opioids ie. Suboxone in 2021.*
>
> *Lab results from Dr Alshigagi include some urine drug tests for opioids. Urine drug testing was done Dec 10, 2020, Feb 3, 2021, and Nov 27, 2022. All*

tests were positive for street opioids such as Fentanyl. On clinic visits after the drug testing there is no mention of the drug testing results.

Dr Alshigagi continued to prescribe non opioid drugs with risk for misuse- Lorazepam/Sublinox. Sublocade was prescribed once in Aug 2022. This appears to be prescribed on schedule and I presume Dr Alshigagi completed the prescribing course of this medication through the college.

London Drugs pharmacy contacted Dr Alshigagi on Oct 7, 2022, to advise him that Ms. [redacted] was receiving double prescriptions of Vyvanse from Dr [redacted] and himself and filling them at different pharmacies. The next clinic visit was Nov 2, 2022, and that visit note has no documentation to support discussion with the patient regarding concern for double doctoring and medication misuse.

The pharmacy contacted Dr Alshigagi again Feb 24, 2023 to indicate that Ms. [redacted] had already been dispensed Vyvanse 60 mg from another physician (? Dr [redacted]) and wanting clarification before releasing 70 mg tablets of Vyvanse. Dr Alshigagi advised releasing 10 mg tablets only to bring her dose to 70 mg per day. He did not see her again in the clinic and again there is no mention of medication misuse.

After full assessment of visit notes the pattern of prescribing is consistent with a patient requesting medications for mental health concerns such as sleep anxiety and ADHD and the physician complying with the request. Although some of the prescriptions given do not match with the complainant letter those given were generally high-risk drugs for misuse, and regular follow- up for refills was often requested. Dr Alshigagi clearly knew Ms. [redacted] was getting prescriptions from other physicians and did not document any concerns with this. It is not believable that these prescriptions were given to assist when Ms. [redacted] regular physician was unavailable given the long-term repetitive pattern of prescriptions given.

82. As outlined above, the Hearing Tribunal found Dr. [redacted] to be a very credible witness and accepted her evidence and expert insight into the issues she was asked to comment on in her expert opinion. With respect to Dr. Alshigagi's charting for the care he provided Ms. [redacted], Dr. [redacted] provided a thorough and compelling analysis, taking into consideration Ms. [redacted] unique medical profile. The Hearing Tribunal accordingly accepted her evidence relating to Allegation 2.

Ms. T. [redacted]

83. Ms. [redacted] has been an MOA for Dr. Alshigagi's clinic since 2018 where she is a front desk receptionist. She knew Dr. Alshigagi before she was hired as he is the family physician for her mother's and sister-in-law. She stated that Dr. Alshigagi took over a practice with a lot of Vietnamese patients, and she provides translation support for some of his patients. She described the clinic

as always busy, although less-so during CO-VID. She described Dr. Alshigagi as caring, experienced and nice with patients.

84. Ms. T. [redacted] stated she acts as a chaperone at times. She said there would always be a chaperone present for sensitive examinations. At other times Dr. Alshigagi would have a chaperone if he was not comfortable with a particular patient. She stated usually the chaperone writes a chart note and sometimes the manager does but that the physician never does.

Ms. [redacted]

85. Ms. [redacted] testified she has chaperoned in medical clinics since 2014. Her work in Dr. Alshigagi's clinic involves front desk staff and being a chaperone occasionally for sensitive exams or if a doctor is uncomfortable being alone with a patient. Ms. [redacted] stated that after a chaperone encounter, the chaperone would typically enter a chaperone note into the patient EMR. She stated the physician does not write chaperone notes.

86. Ms. [redacted] explained chaperone notes were sometimes entered by MOAs into a SOAP note (subjective, objective, assessment and plan note) or added into a pop-up note. At other times when the MOAs were busy, they would ask Ms. K. [redacted] to enter a chaperone note for them into the EMR.

87. The Hearing Tribunal did not find the evidence of Ms. T. [redacted] or Ms. [redacted] to be of assistance with respect to the charting allegations generally, or in relation to the charting of chaperones. Ms. T. [redacted] testified that the majority of Ms. [redacted] visits were chaperoned. If this were true, the chart was clearly insufficient. In addition, and as explained below, the chaperone entries in Ms. [redacted] chart appear to have been entered long after the medical visits occurred.

Mr. [redacted]

88. Mr. [redacted] is the CPSA investigator who was assigned Dr. Alshigagi's file in October 2023. Mr. [redacted] outlined his educational and professional background. He identified the notification of the complaint Dr. Alshigagi was given (Exhibit 19) and Dr. Alshigagi's undated written response to the complaint received by the CPSA on October 13, 2023 (Exhibit 20).

89. Mr. [redacted] advised that after Dr. Alshigagi missed the deadline set by the CPSA to provide a copy of Ms. [redacted] patient chart Mr. [redacted] and another CPSA investigator attended at Dr. Alshigagi's office on Sept 19, 2023. Mr. [redacted] described arriving at Dr. Alshigagi's clinic at around 11:30 a.m., notifying staff of their arrival and explaining the reason they were there. He said they were placed in a waiting room. He then spoke with Dr. Alshigagi and notified him of the reason they were there. At Dr. Alshigagi's request he spoke with Dr. Alshigagi's legal counsel at about 12:13 p.m. According to Mr. [redacted], the patient chart for Ms. [redacted] was printed off at around 12:50 p.m.

and the investigators left the clinic shortly after 1:00 p.m. with the chart (Exhibit 21).

90. Mr. [redacted] also obtained Dr. Alshigagi's Alberta Health billing record for Ms. [redacted] between 2017 and November 2023 (Exhibit 22). The billings span from February 9, 2019 to February 23, 2023.

91. Mr. [redacted]'s investigation identified the following witnesses to interview: Dr. [redacted], three MOAs at Dr. Alshigagi's office (Ms. K. [redacted], Ms. T. [redacted] and Ms. [redacted]) Ms. [redacted], and Dr. Alshigagi. Mr. [redacted] also obtained an expert opinion from Dr. [redacted]. The three MOAs were interviewed from April-May 2024.

92. Mr. [redacted] testified that in addition to obtaining Dr. Alshigagi's patient chart for Ms. [redacted], he obtained and reviewed the EMR including the audit log. The EMR including the audit log was marked as Exhibit 29.

93. Mr. [redacted] stated he reviewed the EMR looking for information related to Ms. K. [redacted]'s allegation that she was not a chaperone on February 23, 2023, and that the chaperone notes made for certain appointments in Ms. [redacted] chart were done retroactively. The audit log indicated that Dr. Alshigagi's chart note for Ms. [redacted] visit on February 23, 2023, was entered on February 24, 2023, and there was no chaperone note in the original entry. However, the audit log indicated that the note was accessed on the day Mr. [redacted] visited Dr. Alshigagi's clinic to obtain Ms. [redacted] chart (September 19, 2023, at 11:59 am). On this date, a note indicating Ms. [redacted] was the present chaperone at the February 23, 2023 clinic visit was added (pages 34 and 43 of Exhibit 29).

94. The Audit log shows the clinic note was accessed at 12:01 p.m. while Mr. [redacted] was present at the clinic. The Audit log also shows that clinic notes for an August 22, 2022 and July 23, 2021 appointment were accessed at the same time. Chaperone notes were added to both clinic visit notes.

95. Mr. [redacted]'s investigation report was entered into evidence as Exhibit 37.

Dr. Alshigagi

96. Ms. Carter asked Dr. Alshigagi some questions about the training he had received in patient charting. Dr. Alshigagi testified that he was not taught how to keep patient charts as part of his clinical-based supervision assessment when he arrived in Canada. He testified that he learned charting and record keeping initially from his colleagues. In 2018 there were communications between him and the CPSA about controlled medications. This led to comments from the CPSA about deficiencies in his charting and he received some guidance and mentorship in this regard. This guidance ended in 2024, and he then had an IPR assessment which included charting. He passed that in 2025.

97. Dr. Alshigagi explained the EMR he used at the clinic and the different pages that would appear on the computer screen when notes were being entered. He explained that there was an accumulated history and list of active medications that could be accessed. A copy of the types of screenshots that would display was entered as Exhibit 46.

98. With respect to charting chaperone visits, Dr. Alshigagi testified that he never had any chaperone rules or undertaking with any patient before this complaint so he did not know the exact rules. He said three of his staff took a 30-minute course to be a chaperone after the complaint and did not have that before so did not know where to put the chaperone notes.

99. Dr. Alshigagi testified that his staff would add chaperone notes in a pop-up note, not inside the chart. He said if he asked for a chaperone to attend with him he relied on the chaperone to add something to the chart. Dr. Alshigagi said he did not have the impression a chaperone note had to be added inside the chart, rather than in a pop-up note, and his staff did not have a clear protocol for that either.

100. Dr. Alshigagi stated that since the complaint in this matter the chaperones are required to open a visit under their name in the chart on the date and write exactly what happened.

101. Dr. Alshigagi denied that at any time after he learned of the complaint by Ms. [redacted], he had changed any aspect of her chart by deleting from or adding to it.

102. Dr. Alshigagi also testified about the urine tests that he required Ms. [redacted] to undergo. He said he knew Ms. [redacted] was on methadone, was following with an addiction rehab centre and had a psychiatrist so he did not have to do anything. He said Ms. [redacted] complained about the tests but he continued to require them.

103. In relation to the specific allegations included in Charge 2, Dr. Alshigagi testified that:

- He would ask Ms. [redacted] about symptoms and make objective assessments, but did not chart that completely;
- He performed mental health examinations of Ms. [redacted] by asking questions, but did not document that;
- He did not always chart medications inside the patient record when medications were prescribed to Ms. [redacted], although this could be figured out by looking at the EMR;
- He discussed double-doctoring and medication abuse with Ms [redacted] every time she attended but did not document it;

- He discussed the risk of serotonin syndrome with Ms. [redacted] but did not document it;

- He performed drug test results and did not document it inside the chart.

104. Dr. Alshigagi conceded in his testimony that his charting was incomplete. He said that some of the information could be figured out by reviewing the chart even if not directly entered. For example, he did not document the drug testing inside the chart but had proof that it was done.

105. Dr. Alshigagi confirmed his admission to Allegation 2 and all of its subparts. He stated he performed the clinical assessments and tasks that allegation 2 says he did not do, but he failed to document appropriately and completely.

106. Dr. Alshigagi stated he was not aware that a chaperone note was needed in the patient chart, and his staff were also unaware of a clear protocol for this. He acknowledged that he did not document any discussion he had with Ms. [redacted] regarding double doctoring, medication abuse, risk of serotonin syndrome but stated that he discussed these issues with Ms. [redacted] at each of her visits.

107. In the context of Charge 2, the Hearing Tribunal also considered the text message exchanges between Dr. Alshigagi and Ms. [redacted] entered as Exhibit 10. The text messages include several requests by Ms. [redacted] to Dr. Alshigagi for prescriptions for specific drugs to be sent to specific pharmacies. Dr. [redacted] commented that this pattern of doctor-patient interaction without adequate documentation of a proper medical assessment corresponding to each rendered prescription was substandard.

Decision Regarding Charge 2

108. The Hearing Tribunal considered the documentary and oral testimony regarding Charge 2 and the Admissions signed by Dr. Alshigagi in relation to this Charge.

109. The CPSA Standard of Practice regarding Patient Record Content outlines required elements regulated members must include in their patient record for patients they are providing treatment to, including:

- presenting concern, relevant findings, assessment and plan, including follow-up when indicated;
- prescriptions issued, including drug name, dose, quantity prescribed, directions for use and refills issued;
- tests, referrals and consultations requisitioned, including those accepted and declined by the patient; and

- a cumulative patient profile (CPP) contextual to the physician-patient relationship (the longer and more complex the relationship the more extensive should be the record) detailing:
    - ongoing health conditions and identified risk factors.

110. As outlined above, Dr. [redacted] detailed several significant shortcomings in Dr. Alshigagi's charting for the care he provided to Ms. [redacted]. Dr. Alshigagi's chart notes for Ms. [redacted] were devoid of a cumulative patient profile. There was a consistent pattern of missing documentation of proper relevant evaluations and relevant counseling allegedly provided to Ms. [redacted]. Refill prescriptions were provided without appropriate documentation of the relevant clinical details. There is no documentation about a discussion with Ms. [redacted] regarding potential serious side effects of medications prescribed including but not limited to serotonin syndrome. There is no documentation about any discussion with Ms. [redacted] about double-doctoring or having positive urine drug test results.

111. The Hearing Tribunal finds that the level of charting Dr. Alshigagi performed for the care he provided to Ms. [redacted] represents a significant deviation from the minimum expected standard.

112. Furthermore, the Hearing Tribunal considers Dr. Alshigagi's substandard charting not to be an incidental one-off occurrence but a consistent pattern, indicating a systemic failure on his behalf to meet the expected standard over a period of several years. The most complete clinical notes for Ms. [redacted] in Dr. Alshigagi's clinical record were documented in 2020 by a social worker who made a chart note regarding Ms. [redacted] mental health and sleep and by a Patient Care Network clinic nurse who entered notes about Ms. [redacted] PAP smear.

113. The Hearing Tribunal considers the seriousness of the deficiencies in charting to be amplified by the severity of the clinical issues Ms. [redacted] had at the time she was receiving care from Dr. Alshigagi. She was a very complex patient with a significant history of mental illness and addictions issues of which Dr. Alshigagi was aware. Patient charting is not simply a formality but an essential requirement to ensure ongoing safe competent care.

114. The Hearing Tribunal does not consider the fact that Dr. Alshigagi received his initial medical training outside of Canada to be a mitigating factor with respect to his charting. While medical trainees in Canada are trained in appropriate charting, by the time Dr. Alshigagi was providing care to Ms. [redacted], he had been a practicing physician in Canada for several years and as a regulated member, his charting practices would be expected to meet the CPSA Standard in this regard, regardless of where he obtained his medical training. Additionally, Dr. Alshigagi appears to have been undergoing CPSA-directed remediation with respect to his charting prior to the present complaint.

115. In all of the circumstances, the Hearing Tribunal accepts Dr. Alshigagi's Admissions with respect to Charge 2. There is a clear factual basis demonstrating the conduct occurred and the Hearing Tribunal is satisfied that the conduct is unprofessional conduct. Dr. Alshigagi's admitted conduct with respect to Charge 2 in the Notice of Hearing constitutes unprofessional conduct pursuant to section 1(1)(pp)(ii) of the *HPA* as his conduct is a significant breach of the CPSA Standard of Practice regarding Patient Record Content. Additionally, this admitted conduct amounts to unprofessional conduct pursuant to section 1(1)(pp)(xii) of the *HPA* as it is conduct that harms the integrity of the medical profession.

c. The Third set of Allegations

IT IS CHARGED:

3. During the period of February 2019 to February 2023 you did fail to maintain an appropriate professional boundary with your patient, [redacted], particulars of which include one or more of the following;

a. You exchanged text messages with your patient for personal reasons,

b. You gave money to your patient on multiple occasions,

c. You kissed and hugged your patient on one or more occasions,

d. You asked or allowed your patient to perform oral sex on you at your clinic, and such conduct being sexual abuse under the Health Professions Act, and

e. You attempted to have sexual intercourse with your patient at your clinic, and such conduct being sexual abuse under the Health Professions Act, and

f. You had sexual intercourse with your patient on one or more occasions, and such conduct being sexual abuse under the Health Professions Act.

116. In the Admissions, Dr. Alshigagi admitted to engaging in the conduct outlined in Charges 3 a. to c. and that his conduct failed to maintain an appropriate professional boundary with Ms. [redacted].

117. During his closing submissions, Mr. Boyer advised the Hearing Tribunal that particular 3 d. would come off the table because given Ms. [redacted] testimony, this particular did not have the evidence to support it. Ms. [redacted] stated in her evidence that she did not believe there had been oral sex in Dr. Alshigagi's clinic. Accordingly, the Hearing Tribunal dismisses Charge 3 d.

118. Dr. Alshigagi contests the allegations set out in Charge 3 e. and f.

i. The Admitted Allegations 3 a. to c.

119. This section of the Decision deals with the admitted particulars of Charge 3, being 3 a. to c.

Ms. [redacted] and Dr. Alshigagi

120. The oral evidence of Dr. Alshigagi and Ms. [redacted], and the documentary evidence establish that Ms. [redacted] became Dr. Alshigagi's patient in February of 2019 and that Ms. [redacted] last recorded visit was February 23, 2023. There does not appear to have been any formal termination of the physician-patient relationship prior to Ms. [redacted] submitting her complaint.

121. Regarding particular a., Ms. [redacted] testified that she and Dr. Alshigagi communicated outside of the clinic by text message and that they texted each other a lot.

122. Ms. [redacted] identified screenshots from her personal mobile phone of some text messages exchanged between her and Dr. Alshigagi during the period from January to July of 2023 (Exhibit 10). Dr. Alshigagi did not dispute the authenticity of the text messages or that they were exchanged.

123. It is clear that the content of some of the text messages is personal. Some of the text messages are for the purpose of arranging meetings between Ms. [redacted] and Dr. Alshigagi outside of the clinic. The Hearing Tribunal considered the content of some of Dr. Alshigagi's texts to be highly sexualized.

124. Dr. Alshigagi admitted communicating with Ms. [redacted] by text. He said this occurred both before and after she became his patient. Dr. Alshigagi said that in Libya (his country of medical training), it was normal practice to communicate with patients through text and that there were no written guidelines or rules about developing relationships with patients outside of the medical care model. He said it would not be allowed ethically based on traditions and religion.

125. Dr. Alshigagi said that after 2019 Ms. [redacted] was usually the one starting the text exchanges and asking for medication, so these were not really personal messages. The Hearing Tribunal relied on the content of the text exchanges that were entered into evidence and gave little weight to Dr. Alshigagi's evidence about the alleged content of texts that were not in evidence.

126. With respect to allegation b., Ms. [redacted] testified that when Dr. Alshigagi came to see her he would usually leave $200 or $300 (a few times he gave her more), and he would also give her money for prescriptions. The text messages in Exhibit 10 confirm that Ms. [redacted] requested money from Dr. Alshigagi and that he gave her money.

127. Ms. [redacted] also identified screenshots from her phone showing e-transfers from Dr. Alshigagi to her. The screenshots are marked as Exhibit 9. They confirm e-transfers from Dr. Alshigagi to Ms. [redacted] in July and August of 2020 in the amounts of $250 and $500 respectively.

128. Dr. Alshigagi does not dispute that he gave Ms. [redacted] money. He testified that he started giving her money before she was a patient and continued to do so afterwards. Dr. Alshigagi said that in Libya if a patient needed help, it was considered good to help them. This would include financial help. He said he was not aware in Canada that this was a boundary violation and he should not give Ms. [redacted] money. The Hearing Tribunal had some difficulty with this evidence given the length of time that Dr. Alshigagi had been living and practicing in Canada by the time Ms. [redacted] became his patient.

129. Dr. Alshigagi also testified that Ms. [redacted] was the one to reach out to him asking for help and he did so before and after 2019. He said he now understands that it was unprofessional and a lapse of judgment under emotional pressure that he deeply regretted.

130. Dr. Alshigagi specifically denied that he gave money to Ms. [redacted] in exchange for sex. He testified that later in their relationship he felt threatened by Ms. [redacted] and provided her with money based on what he perceived to be a threat that if he did not, Ms. [redacted] would reveal their affair to his wife. He stated he did not seek help when he felt threatened and continued to comply with Ms. [redacted] requests.

131. In this regard, Dr. Alshigagi testified about a voicemail he received from an anonymous number in July of 2023. The voicemail was played for the Hearing Tribunal but was not entered as an exhibit. Dr. Alshigagi initially said the voicemail came from Ms. [redacted] phone number but then advised the number was anonymous. Dr. Alshigagi testified the message is a request for money and he did not return it. He stated the voice was Ms. [redacted] and that she did not sound normal. He stated he thought that she was "high" when she called. He said that when she said she was suicidal, this was the usual way she was asking for money – that if she did not get financial assistance, she might harm herself. He interpreted her comment in the voicemail to "take this seriously" as a threat.

132. Dr. Alshigagi previously gave Ms. [redacted] money when requested but said he did not transfer any money to her based on the July 2023 request. He said he transferred money to her before she was a patient and then he was helping her as a partner who requested help. Dr. Alshigagi said that after he accepted Ms. [redacted] as a patient, he no longer felt comfortable giving her money, but he was a little bit scared if he did not do that, she might hurt herself or she might hurt him with his reputation especially with his wife.

133. Dr. Alshigagi stated he now knows giving Ms. [redacted] money was wrong and in retrospect he should have disclosed the situation to the CPSA. He said he did not know what to do so he just continued giving her money.

134. Ms. [redacted] also denied that Dr. Alshigagi paid her for sex. Ms. [redacted] testified that she did work briefly as a sex worker and had three "clients" before deciding not to continue in this type of work because she was robbed. She denied that Dr. Alshigagi was a client of hers. In her CPSA interview Ms. [redacted] stated that early on after meeting Dr. Alshigagi he offered her money and she interpreted this as a proposal for a 'mutual benefits' arrangement between them. At the hearing, Ms. [redacted] described Dr. Alshigagi as "really generous" and said she just had to ask and he would give her however much money she needed.

135. The evidence of Dr. Alshigagi and Ms. [redacted] on this point was inconsistent with the evidence from Dr. Alshigagi's witness [redacted] who testified that Ms. [redacted] considered her sexual relationship with Dr. Alshigagi to be a sex worker-client transactional relationship.

136. With respect to allegation 3 c., Ms. [redacted] testified that her sexual relationship with Dr. Alshigagi started pretty quickly after they met. As will be detailed further below, Ms. [redacted] says this was in 2019, after she became Dr. Alshigagi's patient, while Dr. Alshigagi says the sexual relationship began in 2017 and had ceased by the time Ms. [redacted] first attended at his clinic. Dr. Alshigagi does not dispute that he kissed and hugged Ms. [redacted] after she became a patient, although he said he had otherwise withdrawn from the social aspect of his relationship with her.

137. A central piece of evidence in relation to this allegation were two video/audio recordings and corresponding transcripts from Ms. [redacted] last charted attendance with Dr. Alshigagi in his clinic on February 23, 2023. The videos and transcripts are Exhibits 4, 5, 6 and 7. Ms. [redacted] identified the videos as videos she took on her phone during that clinic visit.

138. Ms. [redacted] explained that there were two videos because after she started recording the first video, she realized that the camera was not pointed in the right direction and she changed the camera and started recording again.

139. The video and audio recordings are of portions of the clinical encounter between Dr. Alshigagi and Ms. [redacted] on February 23, 2023. There is no evidence of anyone else being present during the recordings.

140. At the start of the first video recording (Exhibit 7), Dr. Alshigagi can be seen entering the room where Ms. [redacted] is seated. Dr. Alshigagi says good morning to Ms. [redacted] and she answers. The video then becomes indistinct and at some point the camera view appears to have flipped. The audio and transcript indicate that some pleasantries were exchanged. After some further discussion about Ms. [redacted] current situation and other things, at

about 4:27 on the recording, there are sounds of movement, and then distinct kissing sounds. Those sounds continue until approximately 6:07 on the recording at which point Ms. [redacted] can be heard saying "okay, okay" and Dr. Alshigagi says "I can stop by today if you want." The conversation between Dr. Alshigagi and Ms. [redacted] begins again and there is discussion about Ms. [redacted] prescriptions. Towards the end of this video, the camera view appears to change again and Dr. Alshigagi can be seen before the recording stops.

141. The second video is a video of the original video from Ms. [redacted] phone (Exhibit 4). This recording starts with an image of Dr. Alshigagi seated on a chair in the room. There is conversation that is captured on the video recording and in the transcript. At about the 3:38 mark on this recording, Dr. Alshigagi can be seen getting up from his chair, and walking towards Ms. [redacted] with his arms extended. Ms. [redacted] then gets up from her chair and the video shows Dr. Alshigagi and Ms. [redacted] embracing each other. Kissing sounds can be heard. The embrace continues until about five minutes into the recording at which point the two separate and say good-bye.

142. During their testimony both Ms. [redacted] and Dr. Alshigagi commented on the videos. They both confirm the video shows the clinical visit at Dr. Alshigagi's clinic on February 23, 2023 and that during the visit they hug and kiss.

143. Ms. [redacted] described the first encounter as evolving to the point that Dr. Alshigagi was undoing her pants or her bra and she wanted it to stop, which is when she says "okay, okay". She said at that point Dr. Alshigagi left to print off her prescription. She said there was also kissing during the second encounter.

144. Dr. Alshigagi confirmed that the interaction shown in Exhibit 8 was inappropriate, unprofessional and that he regretted it.

145. Dr. Alshigagi confirmed his admission to Allegation 3 a. to c. He stated the texting between him and Ms. [redacted] was a continuation from 2018 and was mainly personal in nature. He said after 2019 the texts were her requesting money or prescriptions and no longer personal. He now knows it was unprofessional to text a patient and characterized it as a lapse in judgement. He stated giving a patient money, hugging and kissing her were inappropriate and apologized to his wife, the CPSA and his religion.

146. Dr. Alshigagi stated in the future he will not give his personal phone number to patients. He stated if in the future a patient tries to kiss him, he will leave the room, document the event and contact the CPSA.

Decision Regarding Charge a. to c.

147. A successful therapeutic relationship between a physician and patient is based on trust. Physicians must avoid relationships with their patients that give rise to real or potential conflicts of interest and erode or destroy that trust. There is an inherent power imbalance in a physician-patient relationship. In this case the power imbalance was significant. The nature of Ms. [redacted] medical and psychiatric issues made her particularly vulnerable.

148. The Hearing Tribunal finds that in the course of providing care to Ms. [redacted] and engaging in the conduct encompassed by particulars 3 a. to c., Dr. Alshigagi deepened the power imbalance between himself and Ms. [redacted] by providing financial aid. He exploited the imbalance by engaging in communications about purely personal matters and by kissing and hugging Ms. [redacted].

149. In light of the evidence presented, the Hearing Tribunal accepts Dr. Alshigagi's Admissions in relation to Allegation 3 a., b. and c. under section 70 of the HPA. The Hearing Tribunal finds that the conduct in which Dr. Alshigagi engaged as particularized and admitted is unprofessional conduct. The conduct is a significant breach of professional boundaries is clearly conduct that harms the integrity of the medical profession under s. 1(1)(pp)(xii) of the HPA.

ii. The Disputed Allegations: 3 e. and f.

150. Charges 3 e. and f. relate to allegations that Dr. Alshigagi had a sexual relationship with Ms. [redacted] during the time he was her physician as outlined:

> *3. During the period of February 2019 to February 2023 you did fail to maintain an appropriate professional boundary with your patient, [redacted], particulars of which include one or more of the following;*
>
> *e. You attempted to have sexual intercourse with your patient at your clinic, and such conduct being sexual abuse under the Health Professions Act, and*
>
> *f. You had sexual intercourse with your patient on one or more occasions, and such conduct being sexual abuse under the Health Professions Act.*

151. There is no dispute that Dr. Alshigagi and Ms. [redacted] had a sexual relationship. There is also no dispute that Ms. [redacted] became Dr. Alshigagi's patient in February of 2019. Where Ms. [redacted] and Dr. Alshigagi differ in their testimony is with respect to when their sexual relationship began and ended. This issue is at the core of the disputed allegations and was the focus of much of the evidence at the hearing.

152. The Hearing Tribunal was presented with documentary evidence regarding the contested allegations. Additionally, several witnesses testified. The key witnesses with respect to these allegations were Dr. Alshigagi and Ms. [redacted]. A witness initially referred to by Ms. Carter using his legal name, and then by a nickname ("[redacted]") during Ms. [redacted] cross-examination also testified. The evidence of this witness was *in camera* and he will be referred to in this Decision as [redacted]. Other witnesses provided evidence that gives additional context and background or is relevant to the Hearing Tribunal's credibility assessments and fact findings.

153. A summary of the bulk of the witness testimony and an analysis of that evidence and the documentary evidence is presented below. Some of the evidence has already been referenced above in the context of the other Charges.

Dr. [redacted]

154. Dr. [redacted] is a family physician educated and trained at the University of Alberta. She practiced as a family physician for 10 years until 2024. In 2018 she joined the Addiction Recovery Centre Detox where she still works. In 2023 she joined what is now called the Acute Care Addiction Recovery Program (formerly known as ARCH). She is the program director for the Enhanced Skills and Addiction Medicine Fellowship at the University of Alberta.

155. Dr. [redacted] was the admitting physician for Ms. [redacted] on August 5, 2023 when Ms. [redacted] self-presented for withdrawal management admission. Dr. [redacted] explained that during the admission, Ms. [redacted] disclosed a sexual relationship she had with a physician, Dr. Emadalden Alshigagi. Ms. [redacted] also showed Dr. [redacted] a video of a physical interaction between herself and Dr. Alshigagi (Exhibit 8).

156. As a result of Ms. [redacted] statements to her, Dr. [redacted] made a complaint to the CPSA dated August 5, 2023, which was marked as Exhibit 3.

157. On cross-examination Dr. [redacted] was asked whether she had any knowledge of a personal relationship between Ms. [redacted] and Dr. Alshigagi before Ms. [redacted] became his patient. Dr. [redacted] said she was only told what she had written. She said that she did not ask for details of the sexual encounters Ms. [redacted] mentioned and Ms. [redacted] did not provide them.

158. Ms. Carter also challenged Dr. [redacted]'s description in Exhibit 3 of certain comments made by Dr. Alshigagi during the video she was shown by Ms. [redacted]. Ms. Carter put to Dr. [redacted] a transcript made of the video (Exhibit 4). Dr. [redacted] conceded the words captured in the transcript differed from her description of the words as written in her complaint.

159. The Hearing Tribunal is unable to hear the audio clearly enough to ascertain whether Dr. [redacted]'s interpretation of what she heard in the video was accurate or not. Even if wording was as set out in Exhibit 4, rather than what Dr. [redacted] indicated in the complaint, this does not impact the Hearing Tribunal's view of Dr. [redacted]'s objectivity, reliability and credibility. The Hearing Tribunal accepts that Dr. [redacted] wrote what she heard. Her evidence was limited to her interaction with Ms. [redacted] leading to the complaint and what Ms. [redacted] told her at that time. None of that is controversial.

Ms. [redacted]

160. Ms. [redacted] obtained a Bachelor of Communications from MacEwan University between [redacted].

161. She identified the CPSA complaint she made about Dr. Alshigagi dated August 7, 2023, which was marked as Exhibit 5. She testified that she first saw Dr. Alshigagi because she had been in a motorcycle accident and needed a doctor closer to where she lived. She recalls the sexual relationship started within months after they met. She testified that they started texting each other and met for coffee in April or May and their final sexual encounter was sometime in 2022.

162. Ms. [redacted] testified that she last saw Dr. Alshigagi as a patient in February, 2023 and shortly after that, she had a relapse of a fentanyl addiction. She said that she went to "detox", recognized that she was in a really unhealthy cycle and needed to tell someone what was going on. She said she told Ms. [redacted], the nurse she saw at detox and Dr. [redacted] about her relationship with Dr. Alshigagi and showed them a video of her last clinical encounter with Dr. Alshigagi.

163. Ms. [redacted] identified two videos that she took of her last encounter with Dr. Alshigagi on February 23, 2023 (Exhibits 6 and 8). She said that she had gone in to see Dr. Alshigagi for a regular prescription and she had not seen him for a while. She said she did not know what was going to happen at the visit, but just in case something happened, she decided to record it.

164. Ms. [redacted] 10-minute video of her February 2023 clinic visit with Dr. Alshigagi was played (Exhibit 6), with reference to the associated transcript (Exhibit 7). Ms. [redacted] was asked to comment on and explain portions of Exhibit 6.

165. Ms. [redacted] advised that the video starts with her sitting in one of Dr. Alshigagi's clinic rooms and that Dr. Alshigagi then enters the room. The video at times has muffled audio and shortly after it starts, no discernible video images. Ms. [redacted] stated that she told Dr. Alshigagi that she had recently left Poundmakers after a 5 month stay for addictions treatment for fentanyl and benzodiazepine addictions. She stated she received

prescriptions for benzodiazepines and Percocet from Dr. Alshigagi. She was also purchasing drugs on the street at the time.

166. With reference to comments made in the recording about chicken and perfume, Ms. [redacted] stated that Dr. Alshigagi would deliver chicken and perfume to her at her apartment. She said this occurred several times between May 2019 and when the video was taken. She stated the apartment visits were not for medical reasons. Dr. Ashigagi would bring her money and prescriptions. They would usually have sex, eat and talk. She said the prescriptions came in unmarked containers and that Dr. Alshigagi once brought and administered the HPV vaccine at her apartment.

167. Ms. [redacted] also testified that at one point during the February 23, 2023 visit, Dr. Alshigagi touched her leg and kissed and groped her. She said at the point in the recording where she says "ok, ok", Dr. Alshigagi is trying to remove her clothes, and she stops him. Dr. Alshigagi then asks if he can go over to her apartment that night but she suggests the next day. At the end of this recording, Dr. Alshigagi leaves the room to print her prescriptions.

168. Ms. [redacted] also identified and commented about the second video recorded on February 23, 2023 (Exhibit 8). This is the video that Ms. [redacted] showed Dr. [redacted] in August 2023. Ms. [redacted] stated she had corrected the camera direction prior to this video. It shows Dr. Alshigagi back in the clinic room. At the end of the video they hug and kiss each other. She stated the clinical encounter ended at the end of the video and at this point she left. She stated nobody else was in the room during this visit.

169. Ms. [redacted] testified that she first met Dr. Alshigagi at a clinic visit in 2019 and that she was his patient from this time to February of 2023. She testified that their sexual relationship started a couple or several months after the initial visit. She stated he would ask for oral and penetrative sex. The encounters were generally at her apartment, but she said that they once had a sexual encounter at a local hotel.

170. Ms. [redacted] said that in Dr. Alshigagi's office, their encounters would be kissing and groping although he once digitally penetrated her and attempted to have intercourse but it was too painful and they stopped. She did not think that oral sex occurred at the clinic.

171. Ms. [redacted] testified that Dr. Alshigagi would bring varying amounts of money to her apartment (between $200-$300). She recalled him giving her $500 one time because she had tuition coming up. Sometimes the money was e-transferred. The money was given for her tuition fees and to pay for prescriptions. Screen shots of two e-transfers were marked as Exhibit 9.

172. Ms. [redacted] testified she and Dr. Alshigagi texted a lot. Exhibit 10 contains some of their texts from 2023. In these texts, Ms. [redacted] makes requests for prescriptions for medications such as fluoxetine and Vyvanse which he

agrees to provide. She stated that when she requested medications at a specific dose, Dr. Alshigagi would provide them. She asks for "600" in a March text which she said meant $600. Ms. [redacted] stated her recollection of events around the time of the texts was a bit unclear as she was relapsing at the time. She stated that prior to presenting for admission under Dr. [redacted] she had gone to ARC about 15 to 20 times.

173. Ms. [redacted] stated that Dr. Alshigagi never refused a request she made. She requested money be dropped off at her apartment in June 2023 and Dr. Alshigagi brought the money. She recalled he met her in her apartment hallway as her stepbrother was staying over. She reviewed and commented on some texts they exchanged in July 2023. At this time, she was picking at her skin and wanted Dr. Alshigagi to come look at it. She recalls at this time she was using drugs a lot and in a rough emotional state. The following month she self-presented for admission with Dr. [redacted] at ARC.

174. Ms. [redacted] testified that she has a history of boundary violations with men back to when she was a child, so her sexual relationship with Dr. Alshigagi was not anything new. She testified that her biggest problem and the reason she eventually disclosed the sexual relationship with Dr. Alshigagi, was because of the overprescribing that she felt occurred. She believed the prescriptions kept her sick. She stated that there was a dynamic where she would ask for specific drugs including benzodiazepines and Vyvanse at specific doses and Dr. Alshigagi would provide them.

175. Ms. [redacted] stated after she got treatment for her addictions she would feel good for a while but would then start feeling depressed or her sleep would not be good. She would go see Dr. Alshigagi and get more prescriptions and then would feel shame and embarrassment about what occurred between her and Dr. Alshigagi. She stated she used the money he gave her to buy drugs and this would start a five or six-month relapse of her addictions issues again. Ms. [redacted] stated that this cycle of relapse occurred a few times.

176. Ms. [redacted] stated her time with Dr. Alshigagi involved a cycle of shame where she would see him which led to a cascade of "beating myself up". She is glad she told someone of what happened as keeping it inside was eating her alive. She stated she knows she would have gotten sober sooner if it hadn't been for this cycle of feeling good, going to Dr. Alshigagi and then starting to use again.

177. Ms. [redacted] stated her current state of health is good. She has been sober for one year and six months, which is the longest period of time since she was in the midst of her opioid addiction. She said she valued herself very little before and has worked a lot on her boundaries. She stated she is not angry about what happened between her and Dr. Alshigagi. Instead, she feels bad and guilty as she now knows she should have known better and protected herself.

178. She stated she does not hate Dr. Alshigagi but does feel she was used as some form of escape by him. He told her he was stressed and overworked. She felt she was in a very vulnerable situation. She knew better at the time but felt like she did not have enough autonomy to say no because she was an addict. She is unsure if the experience has affected her trust in the medical profession but said she knows it will not happen again.

179. Ms. [redacted] was extensively cross-examined as to when her relationship with Dr. Alshigagi began. Ms. Carter directed Ms. [redacted] to a portion of Ms. [redacted] initial interview with Mr. [redacted]. During that interview Mr. [redacted] advised Ms. [redacted] that Dr. Alshigagi said he met Ms. [redacted] in 2017. He asked Ms. [redacted] about this, and she indicated to him that 2017 would make more sense because the period between her motorcycle accident and getting the dermatological procedures should have happened more quickly.

180. Ms. Carter put to Ms. [redacted] that based on these remarks to Mr. [redacted], Ms. [redacted] was mistaken in her hearing evidence that she met Dr. Alshigagi in 2019 rather than 2017. In response, Ms. [redacted] said she was just a few months out of detox and that she had memory issues because of her benzodiazepine abuse. She repeated that the first time she met Dr. Alshigagi was at his clinic in 2019. Ms. Carter put to Ms. [redacted] that she had in fact met Dr. Alshigagi in 2017 and entered into a sexual relationship with him at that time. Ms. [redacted] denied that.

181. Ms. Carter also confronted Ms. [redacted] with the wording of her complaint (Exhibit 5) in which Ms. [redacted] wrote "In 2017, after a MVA, and subsequent physical/psychological injury, I was looking for a doctor who practiced closer to my home. Dr. Emadalden Alshigagi had just opened his practice several blocks away from me."

182. Ms. [redacted] said that what she meant by the statement was she had a motor vehicle accident in 2017, and not that she was looking for a doctor in 2017. She repeated that she was detoxing at the time of the interview, that her memory was not good with dates at those times, and that she had been able to create the correct timeline by looking back at her text messages.

183. Ms. Carter challenged Ms. [redacted] as to the year of her motor vehicle accident. Ms. [redacted] was adamant that her accident had been in 2017 and remained adamant on that point until she was shown a copy of a medical report from October of 2016 regarding surgery for injuries from that accident (Exhibit 14). She then admitted that she had gotten the year wrong in her earlier testimony and the motor vehicle accident was in 2016.

184. Ms. Carter asked Ms. [redacted] whether she knew an individual who went by the name of [redacted]. This individual was also identified to Ms. [redacted] by Ms. Carter using a different name which Ms. [redacted] did not recognize.

185. Ms. [redacted] acknowledged she knew [redacted] when she was using street drugs. She stated that she was trafficked by [redacted]. She said during the time she was using drugs, she met [redacted] with another girl and they all went to a party. A couple of days after that meeting, she met [redacted] and the girl at a hotel. Ms. [redacted] said [redacted] then tried to get her to give him a cut of whatever she made from men he would send to her apartment. She said she was unaware that [redacted] ever knew Dr. Alshigagi and denied she and Dr. Alshigagi were introduced to each other by [redacted] at a coffee shop in 2017.

186. Ms. [redacted] testified she was robbed by a client after she told him to leave her apartment because she was scared of him. She testified that [redacted] was mad at her for not giving him his cut of the money from this client. She said after that [redacted] texted her a couple of times but their interactions stopped. She seemed genuinely confused by the suggestion that [redacted] would have known Dr. Alshigagi.

187. Ms. [redacted] also denied she was in a relationship with [redacted] for about a year or that she ever had sex with [redacted]. She denied paying him for protection. She said that he gave her cocaine, but she does not remember if she took drugs with him. She stated she first started taking fentanyl in 2020 but is not sure if she used it in front of [redacted]. She did not use weed. She said [redacted] would arrange for men to go to her apartment for sex and paid her in cocaine.

188. Ms. Carter also put to Ms. [redacted] that she threatened men who came to her apartment for sex with blackmail. She said there were only three, and the third was the one who robbed her. She says she filed a police report. She denied mentioning Dr. Alshigagi to [redacted] or threatening to ruin Dr. Alshigagi's reputation if he did not give her what she wanted. She also denied recording any of her sexual encounters. She recalled being upset with [redacted] as she understood from him that he would protect her if she gave him a portion of her earnings, but he was not there when the third client robbed her.

189. Also on cross-examination, Ms. [redacted] denied ever blackmailing anyone for money. She denied threatening Dr. Alshigagi and said there was no need to as he was always generous and would give her what she needed. She denied ever threatening to tell Dr. Alshigagi's wife about their relationship if Dr. Alshigagi did not give her money. She denied accusing her stepfather of sexual assault if she did not get the condo she and her mother lived in. She said she paid $100,000 to have the title to the condo title transferred to her and her mother. She testified she got the money from the settlement of her motor vehicle accident. In re-direct, Ms. [redacted] confirmed that the condo that was purchased from her stepfather is in her and her mother's name. She currently resides in the condo. She confirmed she signed an affidavit re: Value of Land (Exhibit 12) and identified the certificate of title to the condo (Exhibit 13).

190. Ms. Carter also questioned Ms. [redacted] about whether Ms. [redacted] had made allegations of a sexual nature against other men. Ms. Carter referenced an

interview of Dr. [redacted] by Mr. [redacted] in which Dr. [redacted] said Ms. [redacted] had alleged her stepfather had been physical towards her and also that one of the counsellors at Poundmakers or Henwood took advantage of her there.

191. In response to this, Ms. [redacted] said her stepfather had been physical toward her and her mom and she called the police. She said her stepfather had done that before. She was not asked anything more about the other allegation.

192. Ms. [redacted] conceded to Ms. Carter that she was overusing prescription drugs when she was Dr. [redacted]'s patient, and that they had a falling out in 2020 due to this overuse. She said Dr. [redacted] had wanted her to stop using benzodiazepines and Vyvanse. Dr. [redacted] had wanted to speak with Dr. Alshigagi but she would not consent to it. She said she was concerned Dr. [redacted] would find out Dr. Alshigagi was prescribing what she wanted and also about their relationship.

193. Mr. [redacted] acknowledged that Dr. Alshigagi was not her first benzodiazepine prescriber. She had received benzodiazepines from a different physician in 2012 at the Eating Disorder Clinic. She said she had seen different physicians over the years for panic attacks. For a time, she felt like she was using the benzodiazepines properly for panic attacks.

194. Ms. [redacted] admitted to double-doctoring for her prescriptions. She said she knew double-doctoring was wrong. She confirmed that a London Drugs pharmacy confronted her about this before she went into Poundmakers. She said this experience made her realize she was doing something wrong. Ms. [redacted] stated she was also using street fentanyl during this time and if she ran out of medication before her prescriptions had run out, she would lie or go to Dr. Alshigagi. However, she also said that when she went to Dr. Alshigagi she felt she was using prescriptions responsibly and not drug seeking.

195. Ms. [redacted] said that Dr. Alshigagi brought her Percocet to her apartment. She said she would usually pick up the other drugs he prescribed from a pharmacy. She did not think Dr. Alshigagi had picked up her prescriptions and brought them to her. She is unsure why Dr. Alshigagi brought pills for her in unmarked vials. She reiterated that she was using at the time and her memory was not good. She stated recordings and text messages helped her to remember the timeline. She said that her memory was not good about times when she was abusing fentanyl, but if she had been sober at the time, then her memory was good.

196. Ms. Carter asked Ms. [redacted] whether she attended at Dr. Alshigagi's clinic, demanded to see him and got very angry when she was told she could not see him. Ms. [redacted] did not directly respond to whether that happened. Instead, she said she does not get angry but that she cried a lot, and it was probably because she was having a panic attack and had run out of "benzos" and needed more. She acknowledged that other doctors were giving her

benzodiazepine prescriptions, but that Dr. Alshigagi was the only one who would give her prescriptions before a previous prescription period was up.

197. Ms. Carter also asked Ms. [redacted] whether she recalled having interactions with chaperones at Dr. Alshigagi's office. Ms. [redacted] did not appear to understand what chaperones were until that was explained by Ms. Carter. Ms. [redacted] stated she never had chaperones in the room when she saw Dr. Alshigagi but said that she had interactions with the staff at the front desk and a physician assistant for taking blood pressure. She also thought she had seen another physician at the clinic once when Dr. Alshigagi was away. She stated Dr. Alshigagi did not want anyone else to come into the room during their clinic visits.

198. Ms. [redacted] agreed with Ms. Carter that she did not tell Dr. Alshigagi that she was going to record the February 23, 2023 visit. She denied that a staff member had come into the room with Dr. Alshigagi and that she had asked the staff member to leave. Ms. [redacted] said that if a staff member said that someone came in with Dr. Alshigagi and Ms. [redacted] asked that person to leave, the staff member was lying.

199. Later in her cross-examination, Ms. Carter again challenged Ms. [redacted] on her timeline with respect to her relationship with Dr. Alshigagi. Ms. Carter asked Ms. [redacted] to explain the long gap between the motor vehicle accident (2016) and her first visit with Dr. Alshigagi (2019) if, as Ms. [redacted] stated, she went to see Dr. Alshigagi in relation to injuries from that accident.

200. Initially Ms. [redacted] said the gap was only from 2017 to 2019. She said the accident was in the late summer of 2017, and that for the first month it was okay, but after a month she developed bursitis on her knee, and was getting those drained, and then she developed an infection in her knee and had surgery, and then she recovered from that. She said all of that took a year.

201. Ms. [redacted] continued to maintain the accident was in 2017 when shown a record from January 28, 2020 which stated the accident was in 2016 (Exhibit 11). Exhibit 11 contains an entry that states Ms. [redacted] started using opioids after her 2016 motorcycle accident. It also states she denied any sexual exploitation during the visit. Ms. [redacted] main concern about the record was how Ms. Carter had obtained access to it. It was not until she was shown an operative report relating to her knee surgery dated October 25, 2016 Ms. [redacted] acknowledged that she had gotten the year of the accident wrong.

202. Ms. [redacted] acknowledged on cross examination that Dr. Alshigagi had referred her to a psychiatrist but denied that Dr. Alshigagi had offered her addiction treatment, saying that, if anything, he tried to take over more of her care and keep her in his orbit. She stated she agreed to a psychiatry referral but does not remember who accepted the referral.

203. Ms. Carter played an audio recording of a voice message and asked Ms. [redacted] whether she recognized the recording. Ms. [redacted] said she did not recognize the recording and that it was not her voice. She denied it was her voice. The voice mail was later identified by Dr. Alshigagi as a voicemail he received from an unknown number. The recording was not entered into evidence. Ms. Carter said the recording was transcribed, although she did not give details about the transcription. She said she would read from that transcription, and read the following:

Hello.

This is in regard to a patient of yours, [redacted] *She needs—it sounds very important. She needs your help immediately. Call me back tonight, within the hour. It looks like she needs about, oh, god, like—let's say 200 to 300. It's urgent. This is urgent. This is—it—sounds like—yeah, you know, she's threatening suicide. Yeah. I think this is maybe—maybe we should take this more importantly*

Then there's an inaudible section

We should take this seriously. Okay. Thanks. Okay. All right now.

204. Ms. [redacted] denied this was her voice.

205. The Hearing Tribunal asked Ms. [redacted] whether, when she first went to see Dr. Alshigagi, Dr. [redacted] was her doctor. She said that he was, but his practice was a 20-minute cab ride and that Dr. Alshigagi was right up the street, which is why she went to see him. Ms. [redacted] could not remember whether she told Dr. Alshigagi about Dr. [redacted].

206. Although there were aspects of Ms. [redacted] testimony that were inaccurate or unreliable, as referenced in this decision, the Hearing Tribunal accepts Ms. [redacted] evidence as to the timing of her sexual relationship with Dr. Alshigagi and that the sexual relationship began after she became Dr. Alshigagi's patient. Ms. [redacted] remained consistent in her evidence that she first met Dr. Alshigagi when she became his patient and did not have any relationship with him before that time. She did not retreat from that evidence at any point on cross-examination.

207. The Hearing Tribunal also accepts Ms. [redacted] testimony that for the most part her sexual encounters with Dr. Alshigagi took place at her apartment, and that their encounters at the office were kissing and groping, although on one occasion Dr. Alshigagi digitally penetrated her and they tried having sex but it was too painful so they stopped. The Hearing Tribunal also accepts Ms. [redacted] evidence that during the clinic visit on February 23, 2020, Dr. Alshagagi was kissing and groping her and trying to remove some of her clothing when she stopped him.

208. The Hearing Tribunal makes the findings about the timing of the sexual relationship notwithstanding that Ms. [redacted] evidence on the timing of some other events was not reliable and was incorrect. Ms. [redacted], herself conceded that when she was abusing fentanyl her memory of events was poor. Ms. [redacted] evidence about some of the details of her double-doctoring, drug use and interactions with [redacted] was at times contradictory.

209. The biggest inconsistency in Ms. [redacted] evidence related to the timing of her motor vehicle accident in relation to her first visit to Dr. Alshigagi's clinic.

210. Ms. [redacted] was extremely emphatic with Ms. Carter that her motor vehicle accident had occurred in 2017 and only conceded she was wrong about that when shown a medical record that established otherwise. Ms. [redacted] was clearly wrong, but the important issue remains when she first had a sexual relationship with Dr. Alshigagi.

211. Ms. [redacted] also appeared to concede to Mr. [redacted] in her interview with him that she could have met Dr. Alshigagi in 2017. In this regard, the Hearing Tribunal accepts Ms. [redacted] explanation that she was unsure of the timeline when she spoke to Mr. [redacted], was influenced by what he was saying to her, and that she subsequently confirmed her timeline with reference to her medical records and texts with Dr. Alshigagi.

212. Ms. Carter made much of the fact that in Ms. [redacted] complaint and her interview, Ms. [redacted] connected her accident with her decision to go to Dr. Alshigagi's clinic. The Hearing Tribunal accepts that the long gap between the accident (July, 2016) and Ms. [redacted] visit to Dr. Alshigagi's clinic (February, 2019) seems inconsistent with that explanation for her initial visit, even if it is accepted that the sequelae from the accident lasted for about a year.

213. At the same time, the Hearing Tribunal notes that Ms. [redacted] also said in her initial complaint and at the hearing that she was looking for a doctor who practiced closer to her home. Her evidence that the clinic was nearby and it would be convenient to go there is inherently reasonable and is consistent with the physical evidence regarding the location of her residence and the clinic.

214. The Hearing Tribunal is also of the view that in writing her initial complaint, Ms. [redacted] was more likely to have been focused on the conduct she was complaining about as opposed to the timing of or her reason for going to Dr. Alshigagi's clinic in the first place.

215. In assessing Ms. [redacted] credibility, the Hearing Tribunal considered Ms. [redacted] testimony on many other points to be consistent with her medical records and other records. For example, Ms. [redacted] description of cycles where she would complete addiction treatment or feel better and then see Dr. Alshigagi and get prescriptions that would start another descent into a relapse are consistent with the medical records, and Dr. [redacted]'s criticism of the

prescription patterns that she observed. It is also consistent with what she told ARC staff in August 2023.

216. Ms. [redacted] evidence that Dr. Alshigagi would give her the medications she requested from him was consistent with the contemporaneous text messages from 2023, Dr. [redacted]'s assessment and to a large extent, Dr. Alshigagi's own evidence.

217. The Hearing Tribunal also took into consideration the fact that Ms. [redacted] did not deny aspects of her conduct that were put forward by Ms. Carter as a means of challenging Ms. [redacted] credibility and reliability. Ms. [redacted] admitted using street drugs and having engaged in the sex trade. The Hearing Tribunal was not prepared to reject Ms. [redacted] evidence simply based on this conduct, just as it was not prepared to reject [redacted]'s evidence simply on the basis that he admitted to acting as an enforcer for prostitutes and supplying Ms. [redacted] with drugs.

218. Ms. [redacted] also testified that she did not now remember performing oral sex on Dr. Alshigagi in the clinic. She made that allegation in her original complaint. The Hearing Tribunal did not consider the fact that Ms. [redacted] did not remember this occurring to impact her credibility, but as consistent with her trying to testify to events to the best of her recollection some two years after the complaint had been made. Similarly, Ms. [redacted] did not suggest that she had sexual intercourse with Dr. Alshigagi at the clinic other than on one occasion when they tried but it was too painful. Ms. [redacted] evidence about her sexual relationship with Dr. Alshigagi was clear and direct.

219. The Hearing Tribunal does not believe that Ms. [redacted] is motivated by a personal vendetta against Dr. Alshigagi such that she was prepared to lie in order to influence the outcome of the hearing. Ms. [redacted] evidence about Dr. Alshigagi's conduct was calm and measured. She testified that the sexual relationship with Dr. Alshigagi was not the worst part of what transpired between them. She appeared to be more concerned about Dr. Alshigagi's conduct in prescribing her medications and the impact she believes that conduct may have had on her ability to recover. She expressed concern for Dr. Alshigagi.

220. The Hearing Tribunal accepts Ms. [redacted] evidence that she is not angry with Dr. Alshigagi because of their sexual relationship and that she tried to protect him by not disclosing that relationship for a period of time. She testified that she would not consent to Dr. [redacted] talking to Dr. Alshigagi. As verified by the medical records, she also refused to disclose Dr. Alshigagi's identity to the physicians she saw in January of 2023, when she told those physicians that she had a sexual relationship with her physician involving sex for drugs. The Hearing Tribunal appreciates that part of her motive for not disclosing Dr. Alshigagi's name may well have been to maintain access to medications through Dr. Alshigagi if she wanted them.

221. The Hearing Tribunal is unclear based on all of the evidence of the exact nature of the sexual relationship between Dr. Alshigagi and Ms. [redacted]. Both of them denied that it was a purely transactional relationship although acknowledging they each received benefits. [redacted] testified otherwise. It is also unclear who ended the sexual relationship. Dr. Alshigagi testified he did. Ms. [redacted] testified that she just stopped going to see him. Ultimately, the nature of the sexual relationship or who ended it is not the issue. There is no dispute there was a sexual relationship. The fundamental question is when the sexual relationship occurred.

222. The Hearing Tribunal is also unclear about the exact nature of the relationship between [redacted] and Ms. [redacted]. Ms. [redacted] testimony about this was inconsistent and contradictory. So was [redacted]s. However, the only relevance of that relationship from the Hearing Tribunal's perspective is whether her testimony and the conflicting testimony from [redacted] makes Ms. [redacted] evidence on key issues unreliable, and the Hearing Tribunal does not consider that it does.

223. The Hearing Tribunal accepts Ms. [redacted] evidence that there was a sexual relationship between Ms. [redacted] and Dr. Alshigagi when she was his patient and that the sexual relationship started a few months after the initial visit. The Hearing Tribunal rejects the evidence of Dr. Alshigagi and of [redacted] in that respect and will set out the reasons for rejecting their evidence in more detail below.

224. The Hearing Tribunal considered Ms. [redacted] evidence that there was a sexual relationship to be consistent both with the evidence put forward and the evidence that was not put forward in the hearing.

225. For example, although there was written evidence of a personal relationship between Dr. Alshigagi and Ms. [redacted] in 2019, 2020 and 2023 by way of texts and e-transfers, there was no documentary evidence of any kind of a relationship between them prior to 2019.

226. Ms. [redacted] said this was because their relationship did not start until 2019. The absence of any documentary evidence pre-2019 is consistent with Ms. [redacted] version of events. On the other hand, Dr. Alshigagi suggested that there were texts, but that he changed phones regularly and that he deleted Ms. [redacted] texts because he did not want his wife to see them. Dr. Alshigagi did not indicate that he had made any effort to recover copies of pre-2019 texts or other communications. The absence of contemporaneous written documents of any kind before 2019 is inconsistent with Dr. Alshigagi's testimony that his relationship with Ms. [redacted] started before she was his patient.

227. The content of the February 2023 video and the content of the texts exchanged in 2023 are also consistent with there having been a relatively recent sexual relationship between Dr. Alshigagi and Ms. [redacted], not a sexual

relationship that ended in late 2018/early 2019, four to five years before. The texts were also not consistent with a concerted attempt by Dr. Alshigagi to avoid Ms. [redacted] since 2018.

228. The lengths of the two pauses between conversation on the audio recordings during which there are audible kissing noises do not reflect a brief hug and kiss on the cheek. Dr. Alshigagi's comments that Ms. [redacted] friend is "still there waiting" for a green light, his questions about whether she has anybody living with her and his offer to "stop by today if you want" are also more consistent with Ms. [redacted]' evidence of the course of the relationship between her and Dr. Alshigagi's than Dr. Alshigagi's evidence that he reluctantly took her on as a patient in 2019 and even by that point felt threatened by her such that he required chaperones during her visits. The video is also consistent with Ms. [redacted] evidence that Dr. Alshigagi would kiss and grope her during appointments.

229. The Hearing Tribunal also considered the timing of Ms. [redacted] complaint to be consistent with her version of events. According to Ms. [redacted], the last time she had sexual intercourse with Dr. Alshigagi was in 2022. Her complaint to the CPSA in August of 2023 refers to the sexual relationship but focuses heavily on her addiction issues. Ms. [redacted] also disclosed to a physician she saw in an Emergency Room in January of 2023 that she had been involved with a physician and getting drugs for sex, but she did not disclose Dr. Alshigagi's name, as reflected in Dr. [redacted]'s clinic note relating to that attendance.

230. Ms. [redacted] complained to the CPSA about Dr. Alshigagi following a relapse after returning to see Dr. Alshigagi in 2023. The timing of her complaint is consistent with her verbalized motivation for filing it and her evidence that she was most upset about Dr. Alshigagi's medical treatment. She stated she eventually recognized the pattern of going into detox, improving, coming out and then going back to Dr. Alshigagi and getting prescriptions from him and soon thereafter relapsing into her addictions again.

231. Ms. [redacted] evidence about the timing of the sexual relationship was also consistent with a series of text messages that were put to Dr. Alshigagi on his cross-examination. Ms. Carter objected to the use of those text messages in cross-examination but the Hearing Tribunal allowed their use after giving Dr. Alshigagi an opportunity for an adjournment and to cross-examine Ms. [redacted] about the texts. Dr. Alshigagi declined that opportunity as detailed further in relation to Dr. Alshigagi's evidence. The wording in those text messages strongly suggests that Dr. Alshigagi and Ms. [redacted] were discussing going for coffee in 2019, which is consistent with Ms. [redacted] evidence that she met Dr. Alshigagi for coffee after she became his patient in 2019 before a sexual relationship started.

232. As previously noted, the Hearing Tribunal accepts that Ms. [redacted] was incorrect in her testimony that her motor vehicle accident was in 2017. Her

testimony also suggested that Dr. Alshigagi's clinic had only opened shortly before she attended there for the first time, while it was the evidence of Ms. [redacted] that the clinic opened in that location in early 2018.

233. The Hearing Tribunal did not consider the challenges made to Ms. [redacted] testimony on these matters and other inconsistencies to have a negative impact on the believability of her version of events with respect to the key facts relating to Charges 3 e. and 3 f. The Hearing Tribunal found it entirely plausible that Ms. [redacted] did not notice the clinic open in 2018 or that if she did, she did not present for an appointment there until early 2019 as her medical chart confirms.

234. Additionally, Ms. [redacted] stated several times in her testimony that there were periods when she was using drugs and relapsing into her addictions where her memory and recall were not good. The Hearing Tribunal found this entirely plausible and consistent with evidence from her medical chart which clearly outlines her long history of polysubstance abuse and addictions with several admissions for rehabilitation (e.g. Exhibits 11 and 15).

235. Ms. [redacted] was asked by Ms. Carter and acknowledged that she had not told Dr. Alshigagi that she was recording the February 23, 2023 office visit. There was no suggestion she had recorded other office visits and her explanation for why she recorded this visit was "just in case something did happen". The Hearing Tribunal did not consider the reason why Ms. [redacted] recorded the office visit to be relevant to its assessment of Ms. [redacted] credibility. The video recording speaks for itself. There is nothing to indicate that Ms. [redacted] did anything to force Dr. Alshigagi to engage in physical contact with her or make the statements that he made.

Dr. [redacted]

236. Dr. [redacted] was Ms. [redacted] family physician from 2015-2020 and January 2023-present. He has been a practicing family physician in Alberta since 2013. Dr. [redacted] stated Ms. [redacted] had been on controlled medications for quite a while. He stated in 2020 he and a pharmacy noted evidence of polypharmacy and Ms. [redacted] having multiple physicians providing her prescriptions. At the time, he warned her of his concerns, and their therapeutic relationship came to an end as she stopped coming to the clinic to see him.

237. Dr. [redacted] took Ms. [redacted] back as a patient in 2023 after an ER physician asked him if he would do so. Dr. [redacted] stated he learned from the ER physician of Ms. [redacted] disclosure of having been in a relationship with a physician who was also providing her prescriptions.

238. Dr. [redacted] confirmed Ms. [redacted] evidence that she is doing much better now compared to 2020. He said in 2020 she was drug-seeking and that now she no longer asks for early refills and is attending regularly scheduled clinic

appointments with him. Dr. [redacted]'s clinic chart for Ms. [redacted] was marked as Exhibit 15.

239. Dr. [redacted] was not cross-examined. The Hearing Tribunal considered his evidence to be credible and reliable.

Dr. [redacted]

240. As noted previously, Dr. [redacted] provided expert evidence on behalf of the Complaints Director by way of an expert report and through oral testimony. Much of her testimony focused on Charges 1 and 2, but she did provide some opinion evidence with respect to patient boundary issues.

241. Dr. [redacted]'s opinion was based on the materials she was provided, which included both the complaint and Dr. Alshigagi's response to the complaint. Accordingly, she had conflicting information as to whether Ms. [redacted] sexual relationship with Dr. Alshigagi occurred before or after Ms. [redacted] became his patient.

242. In her written report, Dr. [redacted] commented on the propriety of Dr. Alshigagi accepting Ms. [redacted] as a patient and treating her for four years if he had a prior intimate relationship with her, but that does not form part of the allegations.

243. Dr. [redacted] also commented in her report that the chart showed that Dr. Alshigagi followed up with Ms. [redacted] regarding a missed appointment for a pap smear and she found it unusual that a physician would do that. Dr. [redacted] said that the chart showed Dr. Alshigagi performed a pap smear in 2021 and opined that given a history of a personal and intimate relationship, this type of routine screening should have been done by Ms. [redacted] primary physician, Dr. [redacted]. Again, this does not form part of the allegations.

244. Dr. [redacted] was cross-examined by Ms. Carter about her comments regarding the missed appointment and the pap smear and asked whether, if in fact, Dr. Alshigagi did not make the call relating to the missed appointment or perform the pap smear, he would have met the appropriate standard. Dr. [redacted] indicated this was not the information she was given, but if the facts were as suggested, she would agree. She stated she only had the information she was given.

245. Dr. [redacted] was then shown some documents indicating that Ms. [redacted] pap smear was done by a different individual who was also the individual who called Ms. [redacted] about the missed appointment. Dr. [redacted] agreed that she would be comfortable with this occurring if Ms. [redacted] did not have another family physician at the time.

246. The Hearing Tribunal does not consider either of these points to impact its views of Dr. [redacted]'s testimony in any respect. As is often the case with

experts, they can only comment on the information they are given, and if that information is incomplete or inaccurate, their opinion may change.

Mr. [redacted]

247. Mr. [redacted]'s role is explained previously in this decision. His evidence with respect to the disputed allegations is relevant mainly in relation to information he obtained from Ms. K. [redacted] and his evidence regarding entries to Ms. [redacted] patient chart on the date of his attendance at Dr. Alshigagi's clinic.

248. Mr. [redacted] initially interviewed Ms. K. [redacted] on April 26, 2024. He testified that in November of 2024 Ms. K. [redacted] approached him and asked to clarify some of the statements she made in her initial interview. He and Dr. [redacted] re-interviewed Ms. K. [redacted] on November 21, 2024. Mr. [redacted] identified the transcript of this interview and Mr. Boyer tendered the transcript as an exhibit. Ms. Carter objected to the transcript being entered into evidence as she had no indication that Ms. K. [redacted] was being called to give evidence.

249. With respect to Ms. K. [redacted]'s attendance to give evidence, Mr. [redacted] testified that he had spoken to her about a week prior to the hearing. He testified that she expressed extreme trepidation about attending. He understood that her father had recently passed away, she had spent the summer in Vietnam and while she would like to appear, she felt it was too much for her to bear and she was too emotionally distressed to appear.

250. The Hearing Tribunal heard argument from Ms. Carter and Mr. Boyer with respect to the admissibility of the interview transcript.

251. Mr. Boyer acknowledged the evidentiary issues inherent in the Hearing Tribunal receiving the transcript without the opportunity for Ms. Carter to cross-examine Ms. K. [redacted]. He referred the Hearing Tribunal to s. 79(5) of the HPA which states that the rules of evidence do not apply to the hearing. He also referred to two cases, one from the Alberta Court of Appeal, confirming that a tribunal can admit hearsay evidence where the governing statute permits that to occur without the need to determine reliability as a precondition to that admission (*Wright v. College and Association of Registered Nurses* (2012 ABCA 267) at paras. 31233 and *Murray v Council of the Saskatchewan Veterinary Medical Association* (2011 SKCA 1) at para. 26).

252. It was Mr. Boyer's position that the Hearing Tribunal should admit the transcript and make a determination as to whether or not it was reliable and what weight to give it.

253. Ms. Carter did not disagree with the law as stated by Mr. Boyer. However, she raised concerns about the fairness of admitting the transcript,

particularly before adjudicators who might not understand the nuances behind the evidentiary rules that would otherwise make the transcript presumptively inadmissible. She expressed concern about the prejudice to her client of admitting the transcript.

254. In reply to Ms. Carter's submissions relating to fairness, Mr. Boyer noted that the cases that he cited to the Tribunal address fairness and indicate that it can also be unfair for a tribunal not to consider relevant evidence, even if that evidence is hearsay. He submitted that the transcript was relevant to credibility and relevant to any assertion that a sexual relationship between Ms. [redacted] and Dr. Alshigagi in the clinic did not occur and could not have occurred because chaperones were present.

255. Mr. Boyer submitted that the evidence was necessary because Ms. K. [redacted] was not willing to come and testify. Mr. Boyer acknowledged that he could have obtained a Notice to Attend and a court order to enforce the Notice but said that would create delay in a process that had already been delayed.

256. In terms of reliability, it was Mr. Boyer's position that Ms. K. [redacted] was interviewed in the investigation process and then came forward to clarify her previous comments, so he considered it important for the Hearing Tribunal to receive the information.

257. Ms. Carter submitted that if the College considered Ms. K. [redacted]'s evidence important, they should have served a Notice to Attend. She advised she would be calling two witnesses to discuss the chaperone situation. In terms of reliability, Ms. Carter argued that this witness appears to have given two inconsistent statements, which raised reliability issues.

258. The Hearing Tribunal adjourned to consider whether it would admit Ms. K. [redacted]'s transcript into evidence.

259. The Hearing Tribunal ruled that it would allow the transcript into evidence. From a legal standpoint there was no dispute as to the Hearing Tribunal's ability to accept the transcript even though in a court proceeding the transcript might be excluded as hearsay.

260. The key question as articulated by both counsels is one of fairness. At the point the transcript was put forward, the Hearing Tribunal had limited information to meaningfully understand the extent to which this evidence might be relevant to a material issue or of assistance to the Hearing Tribunal with respect to credibility.

261. The Hearing Tribunal did not view the admission of the transcript as a denial of natural justice to Dr. Alshigagi because of the Hearing Tribunal's discretion to assign weight to the transcript in conjunction with the other evidence tendered by both parties. That discretion includes assigning no weight to the

transcript at all. The Hearing Tribunal understands its obligations to exercise that discretion judiciously.

262. The Hearing Tribunal will comment further in its analysis of the various issues as to whether and to what extent the transcript ultimately played any part in its determinations.

263. The transcript of Ms. K. [redacted]'s interview on November 21, 2024, was marked as Exhibit 23.

264. Following this ruling, Mr. [redacted]'s testimony continued. He was asked about the information received from Ms. K. [redacted] during the November 21, 2024 interview. Ms. [redacted] told him that contrary to what she had said in her initial interview, she had not acted as a chaperone during Ms. [redacted] visit to the clinic on February 23, 2023, as noted on the first page of Ms. [redacted] chart. She advised that some of the notes on the first page had been added by someone on September 19, 2023, and the EMR would show that.

265. Mr. [redacted] also testified that the day after the interview, Ms. K. [redacted] provided him with screenshots of WhatsApp messages exchanged between her and Dr. Alshigagi on April 26, 2023, the day of her initial interview. Mr. Boyer tendered the screenshots as an exhibit.

266. Ms. Carter noted her ongoing concern about the fact that Ms. K. [redacted] was not being called to testify but did not otherwise object to the exhibit being marked. The screenshots of the WhatsApp message were marked as Exhibit 24.

267. Mr. [redacted] testified that he also picked up a USB stick from Ms. K [redacted] at her residence. This USB stick contained a PDF referred to Ms. K. [redacted] as "interview stories", and 2 audio recordings obtained using the Voice Note functionality of WhatsApp. Ms. [redacted] described the "interview stories" document to Mr. [redacted] as a script for her to follow for her CPSA interview (Exhibit 25). She told Mr. [redacted] she received it from Dr. Alshigagi. A transcript made of the first audio recording on the USB stick was entered into evidence as Exhibit 26). The second recording (17 minutes) was made by Ms. K. [redacted] the morning of April 26, 2024 and is a recorded conversation between her and Dr. Alshigagi at the Family Care Medical Clinic. A transcript of that 17-minute recording was entered as Exhibit 27. The recordings themselves were entered as Exhibits 35 and 36.

268. Mr. [redacted] received subsequent text messages from Ms. K. [redacted] on or about November 25, 2024, indicating that Dr. Alshigagi wanted her to speak to his lawyer. She expressed to Mr. [redacted] fear for herself and her family's safety. These text messages were entered into evidence as Exhibit 28.

269. Mr. [redacted] identified the audit log from Ms. [redacted] EMR (Exhibit 29). He indicated the audit log showed no contemporaneously created note indicating a chaperone was present for the February 23, 2023 clinic visit. However, the audit log showed Ms. [redacted] chart was accessed on September 19, 2023, the day Mr. [redacted] visited Dr. Alshigagi's clinic to obtain the chart, and that the note indicating Ms. K. [redacted] was a chaperone at the February 23, 2023 clinic visit was added on that date.

270. As noted earlier, Mr. [redacted] testified he arrived at Dr. Alshigagi's clinic at 11:30 a.m. on Sept 19, 2023. The Audit log shows the clinic notes were accessed at 12:01 p.m. and changes were made while Mr. [redacted] was at the clinic.

271. Mr. [redacted] testified that Ms. [redacted] had contacted him on April 25, 2024, and advised she had refused a request for her medical information to be released to Dr. Alshigagi. Mr. [redacted] then obtained an April 23, 2024 letter from Dr. Alshigagi requesting Ms. [redacted] medical records from Dr. [redacted], an opioid and addictions physician. The letter was marked as Exhibit 31.

272. Mr. [redacted] identified the CPSA standards of practice relating to Boundary Violations (Sexual) (Exhibit 33) and Prescribing: Drugs associated with Substance Use Disorders or Substance-Related Harm (Exhibit 32) as the standards relevant to his investigation. He also identified a copy of Ms. [redacted] Netcare record from January 1, 2017 – August 2023 which had been obtained for the investigation (Exhibit 34).

273. In cross-examination, Mr. [redacted] was challenged by Ms. Carter about his conclusion in his report that Dr. Alshigagi was dishonest in his description of how and when Dr. Alshigagi met Ms. [redacted] in 2017. Mr. [redacted] admitted that he had believed at the time that Ms. [redacted] motor vehicle accident was in 2017. He acknowledged, when presented with Ms. [redacted] Netcare records, that the accident was in 2016. He said he had not considered it necessary to obtain documentation relating to the motor vehicle accident as part of the investigation.

274. Mr. [redacted] conceded he had relied on his belief that the motor vehicle accident was in 2017 in concluding Dr. Alshigagi had been dishonest with him. However, he stood by his conclusion. He stated that Ms. [redacted] had told him she had a prolonged recovery from her motor vehicle accident and it would be reasonable to expect that Dr. Alshigagi would have known about this even if they met in 2017 as Dr. Alshigagi alleged. In his CPSA interview Dr. Alshigagi said he had no knowledge of the motorcycle accident. Mr. [redacted] also said the date of the accident was only one reason why he considered Dr. Alshigagi to be dishonest.

275. In addressing questions from the Hearing Tribunal on this issue, Mr. [redacted] stated he considered other factors to conclude that Dr. Alshigagi had been

dishonest in his interview with the CPSA. Ms. [redacted] had a long painful recovery from her motor vehicle accident which Dr. Alshigagi was completely unaware of. Additionally, Mr. [redacted] found no evidence linking Ms. [redacted] and Dr. Alshigagi before 2019. There was no witness to the chance meeting at a coffee shop in 2017. He considered Ms. [redacted] description of how they first met to be more detailed and consistent with the evidence than Dr. Alshigagi's.

276. Mr. [redacted] also acknowledged he had not been told during his investigation that Ms. [redacted] had worked as a prostitute. He stated had he known, he was not sure he would have included the information in his report. He commented that there is nothing in the HPA that suggests the complainant's lifestyle is relevant in assessing professional standards.

277. The Hearing Tribunal did not believe that Mr. [redacted]'s conclusion about Dr. Alshigagi's honesty invalidated or undermined his other testimony. The Hearing Tribunal did not consider Mr. [redacted]'s assessment of Dr. Alshigagi's honesty to be relevant evidence in the hearing and did not rely upon that assessment in any way in making its own determinations of credibility.

Ms. T. [redacted]

278. Ms. T. [redacted] stated she first saw Ms. [redacted] at a restaurant with Dr. Alshigagi in January of 2019. She did not speak to them. The next day Dr. Alshigagi called her into his office and told her that the woman she had seen him with was his girlfriend.

279. Ms. T. [redacted] testified that the next time she saw Ms. [redacted] was when Ms. [redacted] attended the clinic in February of 2019. Ms. T. [redacted] said Ms. [redacted] wanted to see Dr. Alshigagi and had booked in with him. Ms. T. [redacted] said she gave Dr. Alshigagi Ms. [redacted] name and Dr. Alshigagi looked at the camera and at Ms. [redacted] and said he did not want to see her.

280. Ms. T. [redacted] says she told Ms. [redacted] that Dr. Alshigagi did not want to see her and that Ms. [redacted] got upset and said that if Dr. Alshigagi did not see her he would regret it. Ms. T. [redacted] said because Ms. [redacted] was upset and started to cry, Ms. T. [redacted] registered her and put her in an exam room without telling Dr. Alshigagi. She says Dr. Alshigagi went into the exam room and the visit was only a few minutes.

281. According to Ms. T. [redacted] after that, most of Ms. [redacted] clinic visits were chaperoned, and were under five minutes long.

282. Ms. T. [redacted] was then asked about Ms. [redacted] last visit to the clinic on February 23, 2023. Her recollection was that Ms. K. [redacted] said she was going to chaperone the visit, but Ms. K. [redacted] only stayed for about a minute and then came out. Ms. T. [redacted] said the visit was more than 10 minutes and she did not notice anything out of the ordinary.

283. Ms. T. [redacted] said the last time she saw Ms. [redacted] was a few months later. She said Ms. [redacted] came to the clinic at the end of the day while they were in the process of closing. She said Ms. [redacted] did not look normal, perhaps tired and drunk. Ms. [redacted] asked for Dr. Alshigagi and referred to him as Emad. Ms. [redacted] got upset when told that Dr. Alshigagi was not available. Ms. T. [redacted] said Ms. [redacted] mentioned she knew Dr. Alshigagi before he opened the clinic and she was his girlfriend. Ms. [redacted] was not allowed to see Dr. Alshigagi. Ms. [redacted] did not tell Dr. Alshigagi about this occurrence.

284. Ms. T. [redacted] was also asked to comment on the clinic manager Ms. K. [redacted]. She said she had worked with Ms. K. [redacted] for more than 2 years. Ms. K. [redacted] started as front desk staff and then became clinic manager. Ms. T. [redacted] stated she did not enjoy working with Ms. K. [redacted] because Ms. K. [redacted] was paranoid. Ms. K. [redacted] had told Ms. T. [redacted] she had mental health issues and had stopped taking medication her psychiatrist had given her. Ms. K. [redacted] resigned around July 2024 but a few months later Dr. Alshigagi told the staff that Ms. K. [redacted] wanted to return to her job part time. Ms. T. [redacted] stated she and other staff threatened to quit if Ms. K. [redacted] were re-hired.

285. On cross-examination Ms. T. [redacted] testified that Ms. [redacted] first clinic visit was a booked one. She repeated that most of Ms. [redacted] visits were chaperoned and that the chaperones were responsible for entering a chaperone note. The chaperones would be her, Ms. K. [redacted] or Ms. [redacted]. She stated chaperone notes are normally initialed by whoever entered them. She explained the chaperone note is not where the physician notes are; it appears as a pop-up note in the patient's EMR which opens when the patient file is opened.

286. She also stated this final visit was the only time Ms. [redacted] visit went longer than the usual five minutes.

287. Ms. T. [redacted] said Dr. Alshigagi was her boss and gave her pay cheques, but she did not know who owned the clinic.

288. In response to questions from the Hearing Tribunal Ms. T. [redacted] stated usually there would be 30 booked clinic visits and 13-15 walk-in visits per day at Dr. Alshigagi's clinic. She worked five days a week and on alternate Saturdays.

289. Overall, the Hearing Tribunal did not consider Ms. T. [redacted] to be a credible witness. Her evidence on key points in direct examination was heavily led. The Hearing Tribunal also found aspects of her testimony inconsistent and unlikely.

290. The Hearing Tribunal found it implausible that in a busy clinic with 30 to 45 patients a day, where she worked five to six days a week, Ms. T. [redacted]

would remember the typical length of visits of a single patient whose visits were, by her own evidence, unremarkable.

291. In terms of Ms. T. [redacted]'s evidence about the length of Ms. [redacted] visits generally being five minutes, this was directly contradicted by Dr. Alshigagi's billing records and his evidence about the length of the visits when certain codes were used.

292. Ms. T. [redacted]'s evidence that most of Ms. [redacted] visits were chaperoned and that the MOAs understood they were responsible to add a chaperone note whenever they were present was inconsistent with Ms. [redacted] patient chart, which only contained a few chaperone notes. According to the audit log, all of those notes were added on the day that Mr. [redacted] attended the clinic to collect Ms. [redacted] chart. The Hearing Tribunal does not accept Ms. T. [redacted]'s evidence on this issue.

293. Ms. T. [redacted]'s evidence about the events of Ms. [redacted] first visit was also inconsistent with other evidence about that visit. For example, Dr. Alshigagi never mentioned that Ms. T. [redacted] had given him Ms. [redacted] name and that he looked at the camera and then refused to see her. He never mentioned that Ms. T. [redacted] put Ms. [redacted] into a clinic room despite this conversation. The Hearing Tribunal found this a strange omission from Dr. Alshigagi's testimony if it were true. Furthermore, Ms. [redacted] testified that the first time Ms. [redacted] came to the clinic, she came to the front desk, checked in and waited for her name to be called. Ms. [redacted] said nothing about a scene like the one Ms. T. [redacted] described.

294. The Hearing Tribunal also had difficulty believing Ms. T. [redacted]'s vivid recollection of Ms. [redacted] final clinic visit with Dr. Alshigagi on Feb 23, 2023, when she identified nothing remarkable about that visit, other than it was longer than usual and Ms. K. [redacted] had stayed in the room briefly. At the time of that visit there was no way for Ms. T. [redacted] to have known that it would be Ms. [redacted] final clinic visit with Dr. Alshigagi or that the visit was of any importance whatsoever. Again, it struck the Hearing Tribunal as unlikely that Ms. T. [redacted] would recall this visit in the context of the busy clinic the MOAs described.

295. Ms. T. [redacted]'s evidence that at this visit Ms. K. [redacted] entered the clinic room briefly with Dr. Alshigagi and then left is also contradicted by the first video recording, which shows Dr. Alshigagi entering the clinic room alone. Dr. Alshigagi testified that he came in with Ms. K. [redacted] and then left and came back. However, the recording starts with Dr. Alshigagi and Ms. [redacted] exchanging greetings. This does not make sense if Ms. K. [redacted] and Dr. Alshigagi had been in the room before that time. In addition, Ms. T. [redacted] does not suggest she saw Dr. Alshigagi come out of the room with Ms. K. [redacted], but that Ms. K. [redacted] left on her own.

296. Nothing in this matter turns on whether Ms. K. [redacted] was briefly in the room during the visit or not. The recordings capture the relevant portions of what actually happened during the visit.

297. The Hearing Tribunal also does not accept Ms. T. [redacted]'s evidence that she saw Dr. Alshigagi and Ms. [redacted] together before the first clinic visit. There was no obvious reason for Ms. T. [redacted] to remember the physical appearance of someone she briefly saw with Dr. Alshigagi at a restaurant. The Hearing Tribunal considered it unlikely she would recognize Ms. [redacted] when she attended the clinic two months later, even if she had been told the following day that Ms. [redacted] was Dr. Alshigagi's girlfriend.

298. The Hearing Tribunal accepts Ms. T. [redacted]'s evidence that Ms. [redacted] attended Dr. Alshigagi's clinic sometime after February 23, 2023, demanding to see Dr. Alshigagi. However, the Hearing Tribunal does not accept Ms. T. [redacted]'s evidence that at that visit Ms. [redacted] specifically said that she had been Dr. Alshigagi's girlfriend before she came to the clinic.

299. The evidence from Ms. T. [redacted] that Ms. K. [redacted] was paranoid, suffered from mental illness and was difficult to work with seemed implausible to the Hearing Tribunal given the length of time that Ms. K. [redacted] worked at the clinic, her promotion to clinic manager not long after she started, and the fact that Dr. Alshigagi seemed prepared to hire her back. The audio recordings Ms. K. [redacted] made reflect a very different picture of Ms. K. [redacted] than Ms. T. [redacted]'s.

300. The Hearing Tribunal is aware that Ms. T. [redacted] is a longstanding employee of Dr. Alshigagi's and has a financial interest in him continuing to practice. This factor also impacted the Hearing Tribunal's assessment of her credibility and reliability.

[redacted]

301. Counsel for Dr. Alshigagi, Mr. Blaibel, made an application pursuant to s.76 of the HPA to close the hearing for the testimony from this witness. Mr. Blaibel submitted that the witness would provide extremely sensitive testimony that had the potential to threaten the witness's livelihood and even his life.

302. Mr. Blaibel stated that if the public could access [redacted]'s testimony, it could potentially be used against him, and that [redacted]'s safety and privacy rights greatly outweighed any other consideration that would favor keeping his testimony open to the public. Mr. Blaibel argued that there was a danger to [redacted] in terms of who Ms. [redacted] might speak with about his testimony and asked that Ms. [redacted] also be excluded.

303. Mr. Boyer took the position that there was no evidence to support these submissions and no evidence presented regarding threats that Ms. [redacted] may have made against [redacted].

304. Notwithstanding that there was no clear evidence of danger to [redacted] arising from his testimony and notwithstanding the importance of transparency in professional disciplinary proceedings the Hearing Tribunal relied upon the representation of counsel that there was a potential danger of harm to the witness to determine that it would proceed with [redacted]'s testimony *in camera*.

305. In ruling that Ms. [redacted] would not be excluded during [redacted]'s testimony, the Hearing Tribunal referred to section 78 of the HPA which provides for a complainant to attend *in camera* testimony unless the Hearing Tribunal rules otherwise. The Hearing Tribunal found nothing in Ms. [redacted] or Dr. Alshigagi's testimony and no other evidentiary basis upon which it could conclude that Ms. [redacted] presented a danger to [redacted] and should be excluded on that basis.

306. Because his testimony was given *in camera*, the Hearing Tribunal has limited the details of [redacted]'s evidence to the extent possible. For the reasons summarized below, the Hearing Tribunal did not consider [redacted]'s evidence to be credible or reliable and accordingly gave it little weight.

307. [redacted]

308. [redacted]

309. [redacted]

310. [redacted]

311. [redacted]

312. [redacted]

313. [redacted]

314. [redacted]

315. [redacted]

316. [redacted]

317. [redacted]

318. The Hearing Tribunal did not consider [redacted] to be a credible witness. He purported to have a clear and detailed recollection of introducing Dr. Alshigagi to Ms. [redacted] at Starbucks in the summer of 2017 but was vague or evasive when asked about almost any other details or recollections. He demonstrated clear animosity and contempt towards Ms. [redacted], suggesting to the Hearing Tribunal that he may have been motivated to testify at the hearing for personal reasons.

319. [redacted]'s evidence that he met Ms. [redacted] in the summer of 2016 and immediately commenced sexual relations lacked plausibility to the Hearing Tribunal given the medical records indicating that Ms. [redacted] had been in a motor bike accident in the summer of 2016 and had subsequently required surgical intervention for a knee infection that had not responded to antibiotics. The Hearing Tribunal does not believe that [redacted] was involved in a sexual relationship with Ms. [redacted] at this time, given this would have been

before the injury healed and left a scar and that he did not appear to know anything about this.

320. [redacted]'s refusal to answer questions about whether Ms. [redacted] appearance had changed during the time he knew her also undermined his credibility, as did the medical records indicating that at some point in 2016 Ms. [redacted] hair was dyed pink, and the fact [redacted] said Ms. [redacted] was 5 ft 4 when Dr. Alshigagi testified she was 5 ft 8 (Ms. [redacted] was never asked her height).

321. The Hearing Tribunal could only conclude that either [redacted] had met Ms. [redacted] in 2017 and had a relationship with her at that time [redacted] or that he never had a sexual relationship with her at all. If it was the former, this seems inconsistent with him having introduced her to Dr. Alshigagi at that time and with Dr. Alshigagi's evidence that Ms. [redacted] did not appear to be [redacted]'s girlfriend. If it was the latter, it is unclear to the Hearing Tribunal why he would lie about this, but that seemed the most likely alternate conclusion.

322. Ms. [redacted] testified that she did not have a sexual relationship with [redacted]. Given her demeanour when the possibility of a sexual relationship with [redacted] was put to her on cross examination, that seemed entirely plausible to the Hearing Tribunal. Either way, these issues raised concerns for the Hearing Tribunal about [redacted]'s evidence.

323. [redacted]

324. [redacted]

325. [redacted]

326. For all these reasons the Hearing Tribunal did not accept [redacted]'s evidence about the Starbucks meeting. Much of [redacted]'s evidence was aimed at

attacking Ms. [redacted] character and his evidence in that respect did not alter the Hearing Tribunal's assessment of her credibility on the key issues.

327. [redacted]

Ms. [redacted]

328. Ms. [redacted] came to Canada in 2010. She got her first MOA job in 2014. In 2018 she was hired as an MOA at Dr. Alshigagi's old clinic. The clinic moved to its current location in 2018. She described Dr. Alshigagi as decent, kind and compassionate towards patients and said she never had a concern about his interactions with female patients.

329. Ms. [redacted] said she had chaperoned for Dr. Alshigagi. She said after the staff chaperoned, they would enter a chaperone note into the system.

330. Ms. [redacted] confirmed she knows who Ms. [redacted] is. She recalled working the front desk at the time of Ms. [redacted] initial visit with Dr. Alshigagi in 2019. She testified Ms. [redacted] came for a booked appointment, checked in, waited her turn and was brought in.

331. Ms. [redacted] said she would occasionally chaperone Ms. [redacted] clinic visits. Ms. [redacted] said the visits typically lasted five to ten minutes and she never noticed anything abnormal happen.

332. Ms. [redacted] said she recalled Ms. [redacted] final clinic appointment in 2023. She did not recall Ms. [redacted] looking any different than usual. She said Ms. K. [redacted] was the chaperone for the visit and let the other staff know. She says Ms. K. [redacted] came out of the room after about a minute. She could not remember how long the visit was but said it was a proper visit.

333. Ms. [redacted] recalled a subsequent 'remarkable incident' involving Ms. [redacted] that occurred a few months after February 2023. She said Ms. [redacted] returned to the clinic at closing time looking drunk and unsteady on her feet. Ms. [redacted] was with Ms. T. [redacted] at the front desk. Ms. [redacted] asked to see Emad and stated she was his girlfriend and had known him before he opened the clinic and even before the MOAs knew him. Ms. [redacted] said they told Ms. [redacted] that Dr. Alshigagi was not available. She said Ms. [redacted] took on a threatening tone and it took about five minutes to get her to leave. Ms. [redacted] said that as Ms. [redacted] left, she said to "tell him he better call me back". This was the last time she saw Ms. [redacted].

334. Ms. [redacted] was asked about Ms. K. [redacted]. Ms. [redacted] said Ms. K. [redacted] had started as an MOA and been promoted to clinic manager within a few months. Ms. [redacted] said she did not enjoy working with Ms. K. [redacted] and that Ms. K. [redacted] was challenging for everyone. She testified Ms. K. [redacted] had mental health and behavioural issues and had told Ms. [redacted]

she was off of her psychiatric drugs. She said Ms. K. [redacted] was paranoid, suspicious and did not trust her co-workers. Ms. K. [redacted] made big issues of minor things and recorded all conversations with staff and patients. She said Ms. K. [redacted] was aggressive on most days and would lie. She stated she considered quitting because of Ms. K. [redacted]'s behaviour and she knew Ms. T. [redacted] had written a resignation letter too.

335. Ms. [redacted] stated Ms. K. [redacted] resigned in July 2024 but indicated her desire to return after about a month. She stated Ms. T. [redacted] threatened to quit if Ms. K. [redacted] was re-hired and warned Dr. Alshigagi that other staff would also quit.

336. On cross examination, Ms. [redacted] confirmed that she has worked with Dr. Alshigagi since May of 2014. She said Ms. K. [redacted] had been promoted from MOA to clinic manager after a few months and had worked at the clinic for about three years before leaving.

337. Ms. [redacted] indicated that if the staff were asked to chaperone they would add a note to the doctor's SOAP note, or in a pop-up screen or would give the notes to Ms. K. [redacted] and ask her to enter them. She said there was a process in the clinic to make sure there was a record of when a chaperone was at a patient visit.

338. Ms. [redacted] said a typical day for Dr. Alshigagi includes 30-35 booked appointments and 10-15 walk-ins. The clinic is open 6 days a week and she works Monday-Friday.

339. When asked how she could recall that Ms. [redacted] visits were generally five to ten minutes, Ms. [redacted] said normally Dr. Alshigagi's visits were ten minutes for all patients, but for physical exams it could be 15 to 20 minutes. She said Ms. [redacted] normally came for medication refills and so on an average basis her visits were ten minutes. She said she could not compare Ms. [redacted] visits with other patients who come for refills and refills normally take only five to six minutes.

340. Ms. [redacted] was asked about her CPSA interview. She stated she, Ms. K. [redacted] and Ms. T. [redacted] met before speaking with the CPSA. When Mr. Boyer asked, "so you were all on the same page before the interview?", she said yes.

341. Ms. [redacted] could not recall being part of any CPSA-endorsed chaperone training. She could not recall any chaperone requirement for Dr. Alshigagi in 2014. She did not realize Ms. [redacted] had ceased being Dr. Alshigagi's patient until she learned of the CPSA complaint, specifically when the CPSA investigator came to pick up Ms. [redacted] chart.

342. In re-direct Ms. [redacted] was asked further about her meeting with Ms. T. [redacted] and Ms. K. [redacted] before the CPSA interview. She said they sat

together to talk about what they remembered but not to have the same version. She said they all had different experiences. When asked to confirm that they were not meeting to make sure their stories were the same, she said they just wanted to make sure what they remembered about their visits but not to have the same version.

343. Mr. Blaibel tried to enter Ms. [redacted]'s CPSA interview transcript evidence, but Mr. Boyer objected and the Hearing Tribunal agreed that this was not appropriate given that she was testifying and Mr. Blaibel had not explained the purpose of entering the transcript.

344. Overall, the Hearing Tribunal did not find Ms. [redacted]'s evidence of much assistance in its determinations. As had been the case with Ms. T. [redacted], much of her evidence in chief was led. Although she initially agreed that her discussion with Ms. T. [redacted] and Ms. K. [redacted] before their CPSA interviews had them all on the same page, she then tried to explain that the purpose of the meeting was just to "make sure what they remembered". This explanation for the meeting makes no sense to the Hearing Tribunal.

345. The similarities in some of the testimony of Ms. [redacted] and Ms. T. [redacted] came across to the Hearing Tribunal as coached or rehearsed. Both purported to remember that Ms. [redacted] only had very short visits with Dr. Alshigagi, even though neither identified anything memorable about Ms. [redacted] visits.

346. Both Ms. [redacted] and Ms. T. [redacted] clearly remembered Ms. [redacted] first and last clinic attendances. Although Ms. T. [redacted] might have had cause to remember the first visit based on her version of events, Ms. [redacted] described that visit as entirely normal. It struck the Hearing Tribunal as strange that Ms. [redacted] would have a clear recollection of a routine appointment four years after the event. The same is true with respect to the last clinic attendance. The only abnormal thing identified about that meeting might have been the fact Ms. K. [redacted] was only in the clinic room for a brief time, but that does not seem to be a particularly remarkable event.

347. Furthermore, although Ms. [redacted] initially asserted with confidence that Ms. [redacted] visits with Dr. Alshigagi had been no more than five to ten minutes, she became less clear about that evidence when challenged on that point. She eventually said on average Ms. [redacted]visits were 10 minutes. She also rather inexplicably said one could not compare Ms. [redacted] visits with other patients who came for refills. Her evidence as to the length of Ms. [redacted] visits was also contradicted by Dr. Alshigagi's evidence.

348. It was the Hearing Tribunal's view that Ms. [redacted] felt comfortable and had good recall of matters raised in chief and re-direct testimony, but in cross examination and in addressing questions from the Hearing Tribunal, she was vague and ambiguous or purported to have no recollection.

349. Ms. [redacted]'s evidence that there was a process or understanding that chaperones were to enter records into a pop-up note or the physician's SOAP note was consistent with Ms. T. [redacted]'s evidence. Ms. [redacted] said that she would occasionally chaperone Ms. [redacted]' clinic visits. The fact that there were no chaperone notes from Ms. [redacted] other than the one apparently entered on September 19, 2024, is inconsistent with Ms. [redacted]'s evidence on this point. Unlike Ms. T. [redacted], Ms. [redacted] did not testify that Ms. [redacted]' visits were generally chaperoned.

350. Much of Ms. [redacted]' evidence was aimed at discrediting Ms. K. [redacted]. The Hearing Tribunal did not consider Ms. [redacted]'s evidence about Ms. K. [redacted]'s conduct as plausible for the same reason it had difficulty with Ms. T. [redacted]'s evidence in this regard. It seemed unlikely to the Hearing Tribunal that an employee who was as apparently dysfunctional as Ms. [redacted] described would have been promoted to clinic manager within a few months and then remained in that position for three years before resigning.

351. Regardless, even if Ms. [redacted] description was accurate, it makes no difference to the Hearing Tribunal's assessment of what it heard and read in the interactions between Ms. K. [redacted] and Dr. Alshigagi, the authenticity of which messages and recordings has not been challenged.

352. Like Ms. T. [redacted], Ms. [redacted] is employed by Dr. Alshigagi and therefore has a vested financial interest in the outcome of the hearing. The Hearing Tribunal was of the view that Ms. [redacted] was not impartial and unbiased in the evidence she gave.

353. The Hearing Tribunal did not consider Ms. [redacted]'s evidence to have been of much assistance in the key matters at issue in this case. She did not testify as to whether Ms. [redacted]' visits were generally chaperoned. The Hearing Tribunal does not accept Ms. [redacted]'s evidence of what occurred during the last occasion that she saw Ms. [redacted] at the clinic as proof of a pre-existing relationship between Dr. Alshigagi and Ms. [redacted]. The suggestion that Ms. [redacted] suddenly announced for the first time that she had been Dr. Alshigagi's girlfriend since before the clinic opened is implausible to the Hearing Tribunal, for the same reasons as expressed with respect to Ms. T. [redacted]s evidence on the same subject.

Dr. Alshigagi

354. Dr. Alshigagi testified that he obtained his medical degree in Libya from Tripoli University in 2004 and spent 2004-2005 in an internship year. From 2005-2011 he worked in the emergency room at Tripoli Medical Centre. He had exposure to a broad range of patients in the ER and the outpatient clinic he concurrently worked at.

355. Dr. Alshigagi stated that he came to Canada from Libya in 2012. He completed his medical assessment in 2012 and started working as a

physician in 2012. This first job was in McLennan. He has sisters who live in Ontario. He is married and has six children.

356. Dr. Alshigagi described the process he undertook to obtain his practice permit. He initially needed sponsorship from Alberta Health Services. He undertook an online evaluation exam before coming to Canada and then had a clinical-based supervision assessment in Barrhead for 6 months. He said during this assessment there was no focus on medical record keeping. The focus was on clinical judgement, knowledge and skills. He passed his assessment in late 2012 and subsequently received his practice permit.

357. Dr. Alshigagi stated he feels he knows how to chart. He learned mostly from colleagues. In 2018 the CPSA communicated with him regarding his prescribing of controlled substances. In this process some charting deficiencies were noted and the CPSA directed him to undertake some record keeping courses. This was before the current CPSA complaint.

358. Dr. Alshigagi received a certificate of completion for an online course on medical record keeping in 2021 (Exhibit 38). In the course of his communications with the CPSA he received guidance from a senior medical advisor of the CPSA (Exhibit 39). Dr. Alshigagi also had access to a digital, quarterly prescribing snapshot which provides information about his prescriptions to patients of controlled medications. Dr. Alshigagi stated he needed the prescribing course as the pattern of practice differs between Libya and Canada.

359. Dr. Alshigagi stated Ms. [redacted] chart was included in his assessments, but he never received an alarm message from CPSA about Ms. [redacted] obtaining prescriptions from multiple physicians. He stated if he did receive an alarm message his routine was to review the patient's Netcare records and if he noticed a patient getting prescriptions from multiple physicians, he would contact the patient and ask them to decide which physician they wanted to have.

360. Dr. Alshigagi testified that since the CPSA complaint was made by Ms. [redacted] he has completed a PROBE boundaries course in 2025 (Exhibit 40). He stated there are cultural differences between Libya and Canada with respect to medical boundaries. There are no written guidelines for boundaries and ethics in Libya while in Canada it is more structured and safer for both physicians and patients. He testified in Libya it is acceptable for a physician to treat family members.

361. Dr. Alshigagi stated that while there are no guidelines in Libya regarding text communications and personal relationships with patients outside of a therapeutic relationship, one's tradition and religion say that this is not allowed. He stated that in Libya there is no guideline regarding physicians helping patients financially. Dr. Alshigagi said the PROBE course taught him how to deal with different ethical situations with patients.

362. Dr. Alshigagi testified that after this current complaint was filed in 2023, he signed an undertaking with the CPSA for a chaperone agreement (Exhibit 41). In accordance with this undertaking, he provides weekly reports to the CPSA and there have been no concerns expressed by the CPSA. Dr. Alshigagi also underwent two IPR processes with the CPSA in 2024. One was to address concerns raised about his prescribing practices (Exhibit 42). His mentor was Dr. [redacted] and he successfully completed this program (Exhibit 44). Dr. Alshigagi signed an undertaking with the CPSA regarding his prescribing dated April 29, 2024 (Exhibit 43).

363. Dr. Alshigagi summarized the current restrictions on his practice permit. He is to have a chaperone present for all female patients, and he is not to prescribe any Schedule 1 or 2 medications (a list of about 100 medications). He testified the restrictions have significantly limited what he can do in his practice, but there are some positive things as it gives him insight in managing prescriptions more efficiently. He now has few complex patients with conditions such as chronic pain and addictions. Currently he works 10:00 a.m.- 6:00 p.m. and sees 25-30 booked patients per day with up to 10 walk-ins.

364. Dr. Alshigagi testified that he finished his mentorship and was discharged having demonstrated positive changes implemented in his practice (Exhibit 45). He was advised of other improvements he could make, and he said he was implementing those.

365. Dr. Alshigagi was then asked to address the Notice of Hearing (Exhibit 1) and his Admissions (Exhibit 2). He repeated his admissions to all of the allegations in the Notice of Hearing except for 3 d. to f., which he denies. He stated that his interaction with Ms. [redacted] as recorded in Exhibit 8 was unprofessional and not appropriate and he regretted it completely.

366. In relation to Exhibit 8, Dr. Alshigagi stated the interaction in the video regarding medications was a typical one. Ms. [redacted] had requested a Vyvanse prescription refill via text message and he requested that she come to clinic. He knew other physicians were providing Vyvanse prescriptions to her. Ms. [redacted] had also requested zolpidem, and he knew she had been on this medication for two years (i.e., before he accepted her as a patient) but felt there was no overlapping of this prescription. He stated he had advised Ms. [redacted] on many occasions not to double-doctor and stated he would now chart this advice.

367. Dr. Alshigagi testified that when Ms. [redacted] first attended at his clinic their personal relationship had ended "not far away" and overlapping with the professional relations. He stated he was not comfortable taking her on as a patient given how recent their personal relationship was. At the time the situation was new for him, and he did not know what to do. He said she gave him an excuse that she was not going to see him a lot, only when her family

doctor was not available. He said he told her multiple times he did not feel comfortable but her way of pushing herself made him feel a little bit afraid. He said she knew his personal information, and he was afraid she would expose him to his wife.

368. Dr. Alshigagi said he now knows it was a mistake to accept Ms. [redacted] as a patient but at the time he was afraid of the threat to his family relationships. He stated that he would not do the same thing now and has very strict boundaries regarding who he will and will not accept as patients.

369. Dr. Alshigagi repeated his denial of Allegation 3 d. to f. He stated that in the context of those allegations he understood "sexual intercourse" or "sexual contact" to be intercourse or any genital contact.

370. Dr. Alshigagi's evidence is that he had a sexual relationship with Ms. [redacted] before she became his patient. He stated that he first met Ms. [redacted] in the summer of 2017. He stated that when he first met her, Ms. [redacted] was with a man who he knew from the gym and who he knew as [redacted]. He said they knew each other by name only and [redacted] was not his friend.

371. According to Dr. Alshigagi, he would often drive for 50 minutes to an hour after he finished work, and he liked to drink a coffee at Starbucks. He said that day he went to a Starbucks in downtown Edmonton. He thought it was on Jasper Avenue.

372. Dr. Alshigagi said that in the summer of 2017 while he was buying his coffee at the Starbucks, [redacted] said "hi" and started a conversation and introduced Ms. [redacted] to him, saying this is my friend. Ms. [redacted] was dressed in jeans and a white shirt. Dr. Alshigagi testified that he had not yet paid for his coffee, so he offered to buy them something and he bought them a coffee or lemonade. He said he had been there first, and they had come in afterwards.

373. Dr. Alshigagi said that he paid for the beverages that day and they all sat and chatted for about 30 to 40 minutes and exchanged numbers. He recalled Ms. [redacted] as being "very funny, talkative, healthy". He said she was beautiful and attractive. He said they exchanged numbers. He felt there was some mutual attraction between them. He did not ask [redacted] for any information about Ms. [redacted] afterwards and likewise [redacted] did not make any comments to him, so he assumed she was not his girlfriend.

374. Dr. Alshigagi testified that after this initial meeting he and Ms. [redacted] started texting each other sporadically. Their interactions went from friendly to more close, and then more romantic. They texted and spoke on the phone. They met for coffee and went to restaurants. According to Dr. Alshigagi one day after coffee, she invited him to her house. He said he went to her apartment and they had sex.

375. He thought this occurred approximately three months after the initial meeting but could not recall exactly. He said he thought this was around October. He stated she asked him many times to meet after that, and they did and also met up once or twice in local hotels. Dr. Alshigagi stated he was separated from his wife at this time and he considered himself single. He said at the beginning of his testimony that in 2016-2017 his marriage was in a difficult spot and he and his wife separated. She went back to Libya. They were not together again until 2018 when they decided to try reconciling. They currently are together. He confirmed his wife is aware of the CPSA complaint and was observing the Hearing.

376. Dr. Alshigagi stated he continued to be attracted to Ms. [redacted]. When asked when he started giving her money, he said he did not know exactly, but she was always financially broke and was always asking for help. He said she knew he was a physician, had seen his car and was asking for help and pressuring him "for her daily life, activities, for her clothes". He said he initially thought the money requests were part of their relationship and maybe normal and supported her. However, he said that the pattern of requests became concerning and any time they met she requested money. When asked whether he ever knew before these proceedings that Ms. [redacted] was a prostitute he said no and that she never mentioned it or showed any sign.

377. Dr. Alshigagi said that he did not meet [redacted] after the Starbucks meeting, did not ask about him and did not see him at all.

378. Dr. Alshigagi stated in the beginning of 2018 he started to pull himself a little bit out of the relationship with Ms. [redacted]. He says he felt it was not appropriate to continue because it looked like Ms. [redacted] was using the relationship for financial help. He said he slowed his responses to her texts and started being vague, but she did not show any understanding of the delayed responses and continued her messages, calls and requests. Dr. Alshigagi said he reconciled with his wife in late 2018 and decided he had to finalize the conflict with Ms. [redacted].

379. Dr. Alshigagi testified that he told Ms. [redacted] to meet him in December of 2018 or January of 2019 at a restaurant in Oliver Square. He said this was in the afternoon after he finished work. He said his MOA Ms. T. [redacted] saw him and Ms. [redacted] when they were leaving the restaurant and that Ms. T. [redacted] looked at him but did not say anything.

380. Dr. Alshigagi said during his meeting with Ms. [redacted] he told her he was back together with his wife, he needed to end their relations completely, and they should move on with their lives. But he said she did not like it. He said she cried and was panicking. He said he told her she had to move with her life and he could not help anymore and he left.

381. Dr. Alshigagi testified that he did not see Ms. [redacted] again until she showed up at his clinic in February of 2019. He said he had mixed feelings about this. He felt it was inappropriate and felt like it was a threat. He said he told her he could not be a doctor or provider to her and she refused. He said she told him, "I'm not going to bother you, I just will—will come from time to time to be—like, if—my doctor is travelling or something like that". Dr. Alshigagi said he did not register her as a patient and kept her under "walk-in".

382. Dr. Alshigagi said he was angry and did not know what to do. He said Ms. [redacted] was pushing him to the edge and he did not know whether he had to accept her as a patient or not.

383. Dr. Alshigagi testified that at her initial visit to the clinic Ms. [redacted] was having issues with depression and came with a list of medications she said she needed. He said he tried to let her know he could not do that. She asked him to just do it once to help her because she did not have any other doctor and stuff like that. He said he "took it to a professional visit" and tried to get rid of her as soon as he could.

384. Dr. Alshigagi says he assessed Ms. [redacted], checked her medication list on Netcare and gave her a prescription for Prozac. He said he thought if he just gave her a prescription she would leave and not come back, and that was a mistake.

385. Dr. Alshigagi was asked whether he referred Ms. [redacted] to other health care providers. He said he tried to send her to a psychiatrist because the psychiatrist she was seeing was not sending him reports. He said he was not under the impression at the time he was her family doctor. He said he sent her to a psychologist through the Primary Care Network (PCN) he was part of. He also sent her to a pain specialist at the Shield Clinic.

386. Ms. Carter suggested to Dr. Alshigagi that it was clear from the documentation before the Hearing Tribunal that there was some evidence of a romantic relationship while Ms. [redacted] was his patient and asked whether this was a fair comment. Dr. Alshigagi said it was not. He stated there was no romantic element to the relationship when Ms. [redacted] was his patient, but Ms. [redacted] kept pushing things with texts, emojis and flirting with him.

387. Dr. Alshigagi acknowledged that he did respond to a couple of Ms. [redacted] texts by sending jokes sometimes but said there was no romantic or personal relationship. He said he would not respond right away but she kept pushing. He said that responding to texts and the heart emojis Ms. [redacted] sent him was inappropriate and wrong.

388. Dr. Alshigagi said two things made him keep texting Ms. [redacted] and helping her. He said first, he never had sex with Ms. [redacted] while she was his patient. Second, he said all his messages were responding to hers. She was always

requesting help with medications or money. He said his response was ignorance most of the time and sometimes he responded to help her feel better. He also said he was fearful and he felt that Ms. [redacted] requests for help were a threat and if he stopped responding, he might get in trouble right away. He now sees the arrangement as a regrettable misjudgment and termed it a horrible experience. He said he was trying to take responsibility for it.

389. Ms. Carter referred Dr. Alshigagi back to the February 23, 2023 visit with Ms. [redacted] and asked him whether he had a chaperone with him. He said that this was the first visit after a long gap and he decided with the staff that if she started coming again, he needed somebody to be there. He thought either Ms. T. [redacted] or Ms. K. [redacted] came with him. He said the MOAs confirmed to him after sitting together that it was Ms. K. [redacted] who came in. He said Ms. [redacted] asked the chaperone to leave and he left with the chaperone and asked her to stay close to the room. He stated Ms. [redacted] first video started when he returned to the room after Ms. K. [redacted] left.

390. On cross-examination and in relation to Dr. Alshigagi's testimony that he received no training during his initial 6-month evaluation process, Mr. Boyer asked Dr. Alshigagi whether he recalled a form of agreement with the CPSA that stated the process was not a training exercise but a high-risk pass/fail process. Dr. Alshigagi said he could not recall the agreement or the provisions. He acknowledged that as part of his supervised practice assessment he was required to demonstrate that his charting was accurate and that he passed that assessment.

391. With respect to Dr. Alshigagi's testimony that he had no education from the College on boundaries before the PROBE course he took, Mr. Boyer reminded Dr. Alshigagi about the mandatory training course the College required around Bill 21. This training was to be completed no later than 2020 and Dr. Alshigagi acknowledged that he took that module and that it dealt with boundaries with patients and doctors. Dr. Alshigagi said it was "not deep" like the PROBE course.

392. With respect to Dr. Alshigagi's testimony around chaperones, Dr. Alshigagi denied that he had said that he did not have a chaperone undertaking before the 2023 complaint. He said that his evidence had been that he did not have any chaperone education around that undertaking.

393. Mr. Boyer then showed Dr. Alshigagi a chaperone undertaking Dr. Alshigagi had signed dated October 4, 2013. Dr. Alshigagi confirmed signing the undertaking but said he thought the undertaking was signed with a condition to take a charting course and the undertaking would end. He said he did not work until he took the charting course. He repeated that he did not know the exact chaperone requirement and said this undertaking was for a very short time. The undertaking was marked as Exhibit 47.

394. Dr. Alshigagi also confirmed on questioning by Mr. Boyer that in October of 2013 he had completed a professional boundaries course at UBC (Exhibit 48).

395. Mr. Boyer then showed Dr. Alshigagi a further undertaking Dr. Alshigagi had signed with the CPSA on March 19, 2014, to have a chaperone for 3 years (Exhibit 49). Dr. Alshigagi confirmed his signature but said he did not remember the undertaking and that he never had a chaperone undertaking for three years. Dr. Alshigagi said he could not say what happened with this undertaking because he did not recall.

396. Mr. Boyer then asked Dr. Alshigagi about his response to the August 11, 2023 letter from the CPSA attaching the complaint by Ms. [redacted] (Exhibit 19). Dr. Alshigagi did not recall when he received the complaint. He said he was in Libya for all of August of 2023 and not checking his messages and there was no Internet. He said he started the process of responding the day he came back but agreed that he had not responded by September 19, 2023 and Mr. [redacted] attended his office on that date. He said he thought his lawyer at the time had contacted the CPSA and asked for an extension for his response to the complaint.

397. Mr. Boyer also asked Dr. Alshigagi about his statement in the response he made to the Complaint that "I deny that I had sex with Ms. [redacted] while she was my patient or used the patient relationship in any way to try to produce intimacy". Mr. Boyer asked about the embracing and kissing that occurred on February 23, 2023 and Dr. Alshigagi said his understanding was that "intimate" meant sexual intercourse.

398. In relation to his statement in his response that Ms. [redacted] did not present as having any issues physically or mentally, Mr. Boyer asked whether Dr. Alshigagi knew about any impairments from Ms. [redacted] motorcycle accident and Dr. Alshigagi said Ms. [redacted] never mentioned this to him and in the summer of 2017, she was good, healthy and walked normally.

399. Dr. Alshigagi verified that he and Ms. [redacted] exchanged phone numbers and started calling and texting each other after they first met. He said that he got rid of the texts as he did not need his wife to see them.

400. In his response to the complaint, Dr. Alshigagi said that his romantic involvement and relationship with Ms. [redacted] stopped gradually over the course of a number of months. Dr. Alshigagi indicated his last sexual encounter with Ms. [redacted] was in July of 2018 and that he had the "break-up meal" with her in December of 2018 or January of 2019. Dr. Alshigagi said things changed in early 2019 when Ms. [redacted] came to the clinic and he told her he was not comfortable seeing her as a patient because of their relationship and offered to get her another doctor.

401. Dr. Alshigagi advised Mr. Boyer that he also got rid of any text messages with Ms. [redacted] after she became a patient because he wanted to destroy the evidence so his wife did not see it.

402. In his response to the complaint, Dr. Alshigagi said that at the time of the February 23, 2023 visit captured in the video recording he was trying to find a way to reduce his interactions with Ms. [redacted] and had stopped responding to her text messages. Dr. Alshigagi did not agree that this statement in his response was untrue. He said that the text messages from 2023 entered in evidence would show that he was not responding to Ms. [redacted] emails right away and was ignoring them for weeks, sometimes months. He said this is what he meant in his response to the CPSA.

403. On the fourth page of his response to the CPSA, and regarding the February 23, 2023 visit, Dr. Alshigagi stated that "the intimate moment" was the only one that occurred between him and Ms. [redacted] in clinic. He stated he did not initiate it or want it to happen. In relation to his use of the word "intimate" Dr. Alshigagi said in this context he was using intimacy as having a large definition, but that it may lead to intercourse.

404. Mr. Boyer asked Dr. Alshigagi how long his visits would typically be with Ms. [redacted]. Dr. Alshigagi indicated he knew the last visit was 15 or 20 minutes because he had the chart but could not comment on the length of the other visits without his chart.

405. Mr. Boyer then referred Dr. Alshigagi to some entries in the billing records (Exhibit 22). Mr. Boyer informed Dr. Alshigagi that there were two billings for Ms. [redacted] first billed visit on February 9, 2019. One was a diagnostic interview, and one was a 03-04A which is a comprehensive assessment. Dr. Alshigagi confirmed this visit was a fairly comprehensive clinical encounter. He said he had to do a comprehensive visit in order to prescribe the medications Ms. [redacted] was insisting on.

406. With respect to the next visit on March 7, 2019, the entry showed a psychiatric billing code of 08.19G (two units). Dr. Alshigagi disagreed with Mr. Boyer that the use of this code meant the visit had to be for at least 23 minutes because the billing requirement says 15 minutes or major portion thereof. Dr. Alshigagi said this was not totally correct because if he spent 20 minutes with a patient and spent 10 minutes charting, that was included, as would be time spent reading about her situation and medications.

407. Dr. Alshigagi acknowledged that he used this psychiatric evaluation and psychiatric therapeutic code for a number of visits and said this was because psychotherapy was the main reason for Ms. [redacted] visits. Dr. Alshigagi also acknowledged that in 2019 and to June of 2020 he saw Ms. [redacted] once a month or more. Dr. Alshigagi indicated that this was usual with complex patients like Ms. [redacted] when he had to prescribe medications monthly.

408. The billing records disclose frequent visits with Ms. [redacted] to June of 2020, less frequent visits in the balance of 2020 and 2021 and then no clinic visits from September 2021 to August 2022. Dr. Alshigagi confirmed that he saw Ms. [redacted] for a longer visit (3 units of 08.19G) in November of 2022 and saw her again twice in December of 2022 and then at the beginning and end of January, 2023.

409. Mr. Boyer put to Dr. Alshigagi that the billing evidence was inconsistent with Dr. Alshigagi's testimony that prior to the February 23, 2023 clinic visit he had not seen Ms. [redacted] for a long time. Dr. Alshigagi said he could not recall the visits unless he had the chart. Dr. Alshigagi would not agree with Mr. Boyer that his evidence had not been accurate. He said, "several months for me is maybe one—two months" and he could not say the length between visits without the chart.

410. Mr. Boyer also cross-examined Dr. Alshigagi about the pop-up notes relating to chaperone visits on the first page of Exhibit 21. Dr. Alshigagi acknowledged there were only three or four notes of chaperones even though Ms. [redacted] was seen probably 40 to 45 times. Dr. Alshigagi said that this was because he was not charting everything at the time and because he was relying on the chaperones to put in their own notes. Dr. Alshigagi said he could not control what his staff wrote or when and if notes were missing that was their responsibility. He said he did not change or add or make any chaperone notes himself.

411. Mr. Boyer also asked Dr. Alshigagi about the documentation provided to Mr. [redacted] by Ms. K. [redacted]. Dr. Alshigagi denied that he provided Ms. K. [redacted] with a script for her interview with the College (Exhibit 25). He acknowledged that the WhatsApp message Ms. K. [redacted] had provided to Mr. [redacted] is a voice message that he sent to her (Exhibit 35). He denied that in the recording of the conversation between him and Ms. K. [redacted] (Exhibit 36), he was coaching her about what to say.

412. Dr. Alshigagi then indicated that he wanted to tell Mr. Boyer more about the recordings. He said that the first longer conversation between him and Ms. K. [redacted] (Exhibit 36) happened after many other questions from Ms. K. [redacted] and interactions between him and the staff. He said there was confusion about Ms. K. [redacted] that he needed to clarify.

413. Dr. Alshigagi said Ms. K. [redacted] started with him as an MOA and that he saw she had very good skills to be a manager and gave her that position, but since that time he realized she was recording everybody, all conversations, patients, calls and he confronted her about that. He said she told him she did it to refresh her memory. He says he asked whether she had issues with her memory and she said her psychiatrist said she should use some medications and she was not. Dr. Alshigagi says he told Ms. K. [redacted] to see her psychiatrist and start the medication. He said since that day she was hesitant in her conversations and could not give confirmation about anything.

414. Dr. Alshigagi testified that when the CPSA sent the letter about the complaint, he asked Ms. K. [redacted] to print it and then Mr. [redacted] sent emails to the staff and the staff came to him and asked what it meant. He said he told them it was just the College investigators trying to meet with you and do interviews.

415. Dr. Alshigagi said what happened then was the staff all sat together and started to recall their memories about what happened with Ms. [redacted]. He said one of them mentioned to him they had met and that they started to write and confirm what happened with Ms. [redacted]. He said when they reached the chaperone day, Ms. K. [redacted] was not sure if she was the one that went inside and the staff confirmed to her that it was her and they saw her go in and come out.

416. Dr. Alshigagi said Ms. K. [redacted] then became irritable, not confident going to her interview, and started asking a lot of questions. He said that she caused a lot of issues, particularly with Ms. T. [redacted] and Ms. T. [redacted] threatened to leave because of this. This happened before the interview.

417. According to Dr. Alshigagi, on the day of the interview Ms. K. [redacted] was not herself and she came to see him and closed the door and said she needed to know exactly what was going on. He said he answered her questions. He said Ms. K. [redacted] did not want to say that Ms. T. [redacted] saw Dr. Alshigagi with Ms. [redacted]. He said he had told Ms. T. [redacted] that Ms. [redacted] was a previous girlfriend and that Ms. T. [redacted] told everybody about that, and everybody knew that from the same day. He said that Ms. K. [redacted] was refusing to say this and he was just trying to tell her to say the truth.

418. Dr. Alshigagi also said that his staff had already prepared everything for their interviews in writing because English was not their first language and Exhibit 25 was the document the staff created as to what they wanted to tell the interviewers.

419. Mr. Boyer asked Dr. Alshigagi about the letter he sent to Dr. [redacted] at the Opioid and Addiction Clinic (Exhibit 31) in April of 2024 requesting Ms. [redacted] records. Dr. Alshigagi admitted that he did not have the authority to look at Ms. [redacted] records at that time. He said he needed the information because the CPSA was asking him questions about Ms. [redacted] medications and he could not go on Netcare. He said he sent a lot of consent forms to the CPSA to allow him to collect information, but he did not know the exact rule.

420. Mr. Boyer then presented Dr. Alshigagi with Exhibit 11, the record from a 2020 consult with Ms. [redacted] that Ms. Carter had entered into evidence through Ms. [redacted]. Mr. Boyer pointed out that the header on the document showed the document was accessed on April 16, 2024. Mr. Boyer suggested to Dr. Alshigagi that Dr. Alshigagi had accessed and downloaded the

document. Dr. Alshigagi stated he could not recall. Mr. Boyer then showed Dr. Alshigagi that the headers on the records obtained by the CPSA were all dated October 2023 and again put to Dr. Alshigagi that Dr. Alshigagi had downloaded the document from Netcare without authorization. Dr. Alshigagi said he did not know if it was him or somebody else.

421. Dr. Alshigagi was then cross-examined about his EMR for Ms. [redacted] (Exhibit 29) and the access entry for "[redacted]" at 11:59 a.m. on September 19, 2023. Dr. Alshigagi confirmed "[redacted]" would be Ms. K. [redacted]. He also confirmed that Mr. [redacted] and the other investigator attended his clinic at around 11:30 a.m. that day and were there for about an hour and a half before they were given Ms. [redacted] patient chart.

422. Mr. Boyer put to Dr. Alshigagi that his story about his sexual relationship with Ms. [redacted] starting before 2019 was not honest and that Dr. Alshigagi had a sexual relationship with Ms. [redacted] that started in May of 2019. Dr. Alshigagi denied this. He also denied that he created the story of the relationship starting before 2019 because he knew that if the relationship was after April 1, 2019, he was at risk of being found guilty of sexual abuse and being cancelled as a physician.

423. At this point in the cross-examination, Mr. Boyer advised Dr. Alshigagi that Ms. [redacted] had been watching his testimony and that Ms. [redacted] and provided Mr. Boyer with a text message from April 26, 2019, which he had provided to Ms. Carter.

424. Ms. Carter strenuously objected to Dr. Alshigagi being cross-examined about the text message or any other text message that had not been produced to Dr. Alshigagi before Ms. [redacted] testified.

425. This development came near the end of the hearing day, and after further discussion it was agreed that Ms. Carter and Mr. Boyer would provide submissions or cases in support of their positions on this issue to the Hearing Tribunal.

426. The parties made submissions about the use of the new text messages (the "2019 Texts") the following morning.

427. Ms. Carter advised that she and her co-counsel Mr. Blaibel had received an email from Mr. Boyer at 2:09 p.m. the previous day providing the 2019 Texts. She advised that they responded immediately, vigorously objecting to the use of these records and expressing surprise that Ms. [redacted] would provide them in the middle of Dr. Alshigagi's testimony and after she had years to provide the College with any relevant information. Ms. Carter said she anticipated that Mr. Boyer would bring an application to reopen his case, but instead Mr. Boyer had taken them by surprise by putting the 2019 Texts on his screen and attempting to cross-examine on them.

428. Ms. Carter quite fairly acknowledged at the outset of her submissions that the Hearing Tribunal is not bound by the rules of the law of evidence and has broad discretion to reopen the proceedings should it wish to do so. However, she urged the Hearing Tribunal to exercise that discretion sparingly and with restraint, given the fundamental importance of finality in the justice system.

429. Ms. Carter submitted that the Hearing Tribunal had to be satisfied of three conditions to justify the reception of fresh evidence:

- First, that the evidence could not have been obtained with reasonable diligence;
- Second, the evidence must be such that, if given, it would probably have an important influence on the result of the case, though it need not be decisive; and
- Third, the evidence must be such as presumably to be believed, or in other words it must be apparently credible, though it need not be controversial or incontrovertible.

(*Varco Canada Ltd. v Pason Systems Corp* 2011 FC 467, 2011 CarswellNat 1204)

430. Ms. Carter submitted that although the above test was originally applied to cases where judgment had already been rendered, the Supreme Court has confirmed that the same principles apply to motions to reopen in proceedings before judgment, with a slight modification to the second step of the test: whether the evidence, if presented, could have had any influence on the result.

431. In relation to this three-part test in the context of professional disciplinary proceedings, Ms. Carter referred to the Alberta Court of Appeal decision in *Alsaadi v Alberta College of Pharmacy*, 2021 ABCA 313, a case involving the addition of charges during a hearing. She also referred to the duty of parties to proceedings to bring forward their whole case and produce and enter all of its clearly relevant evidence (*Oakley v Royal Bank of Canada*, 2013 ONSC 145).

432. Ms. Carter emphasized the duty of broad disclosure to a regulated member in a professional discipline process as a matter of fairness (*Markandey v. Board of Ophthalmic Dispensers* [1994] OJ 484 (Ont CJ)). She submitted that the College having closed its case, the proper method of proceeding is to focus on (1) whether the evidence, if properly tendered, would probably have altered the outcome and (2) whether the evidence could have been discovered sooner had the party seeking to introduce the evidence applied diligence.

433. In applying the identified factors to the situation before the Hearing Tribunal, Ms. Carter submitted Ms. [redacted] clearly had the text messages and chose not to disclose them to the College. Ms. Carter said it could be surmised that the

investigator either did not request all of Ms. [redacted] evidence, or if he did, Ms. [redacted] chose not to disclose it.

434. Ms. Carter equated due diligence to fairness in this context. She said that since it appeared that Ms. [redacted] was able to find the 2019 Texts while watching the hearing, there was no reason she could not have located them days, weeks, months or even years before.

435. Ms. Carter also argued that the 2019 Texts would play a minimal role in advancing Mr. Boyer's case, since evidence the parties were communicating by text in 2019 did not prove that her client engaged in sexual conduct with the complainant after April 1, 2019.

436. Third, Ms. Carter dealt with the requirement that new evidence must be apparently credible. She said that there was no way for Dr. Alshigagi or his counsel to verify the legitimacy of the texts in the middle of a hearing. She said the texts could have been sent by somebody else or could be fake and she had no means of dealing with that.

437. Ms. Carter also said that timing of the disclosure was concerning and suggested that Ms. [redacted] had held the 2019 Texts back for a reason.

438. Accordingly, Ms. Carter submitted the tests for the reception of fresh evidence had not been met and the 2019 Texts should not be accepted into evidence.

439. Ms. Carter also submitted that had Dr. Alshigagi's counsel known about the 2019 Texts, they might have used a different defense strategy. That ability had been taken away and now they were required to respond on quick notice and could not do so fully in fairness to their client. In the absence of any context or explanation for the late disclosure, she submitted that exceptional circumstances to override the due diligence requirement should not be assumed.

440. Further to this point, Ms. Carter pointed out that as Mr. Boyer had closed his case, she was now unable to ask Ms. [redacted] about the 2019 Texts. It was Ms. Carter's position that Ms. [redacted] should have to face the consequences of choosing not to disclose the texts earlier or failing to exercise adequate diligence to find them. Ms. Carter submits this decision or oversight should not be to the detriment of Dr. Alshigagi. She argued Mr. Boyer's approach to the 2019 Texts, knowing they were going to be objected to, should also weigh against their inclusion.

441. Ms. Carter concluded her submissions by emphasizing the seriousness of these proceedings and the potentially life-altering consequences to Dr. Alshigagi, all of which called for a high degree of procedural fairness.

442. Mr. Boyer advised that the email from Ms. [redacted] to him regarding the 2019 Texts was sent four minutes before he forwarded it to Dr. Alshigagi's lawyers. As soon as it was received, it was disclosed.

443. Mr. Boyer argued that he was not seeking to reopen the case. He suggested that the situation here was more akin to the situation in *Peters v Treasury Board* [2007] CPSLRB No. 10. In particular, he drew the attention of the Hearing Tribunal to paragraphs 97 and 98 of that decision which speak to the question of balancing the admissibility of evidence and procedural fairness.

444. In *Peters*, the Labour Relations Board said:

> Normally, information to impugn a witness is properly adduced during cross-examination or, in some circumstances as "reply evidence". If a party does not have the information immediately at hand at the hearing, or if it requires further time and effort to develop the evidence, that party may apply to the adjudicator for a break or an adjournment. In the case of this hearing, the grievor did not apply for an adjournment, declined the opportunity to offer reply evidence and closed her case.

445. Mr. Boyer acknowledged that the evidence being put forward by the Complaints Director to prove the allegations in the Notice of Hearing had been presented and the Complaints Director's case had closed. However, he submitted that Ms. [redacted] made clear in her evidence and her interview that she had the 2019 Texts. Further, although he conceded the Hearing Tribunal did not have this information before it, he said that Dr. Alshigagi would have received a copy of the transcript of Ms. [redacted] interview referring to the 2019 Texts. Mr. Boyer said if the information disclosed to Dr. Alshigagi was that Ms. [redacted] had these 2019 Texts, and Dr. Alshigagi considered the 2019 Texts to exonerate him, he could have requested them or brought an application to obtain them. He made no such request and brought no application.

446. Mr. Boyer advised the Hearing Tribunal that Mr. [redacted] had now received all of Ms. [redacted] text messages and that there were a number of options available if late disclosure was of concern to the Tribunal. He gave as an option the further cross-examination of Ms. [redacted]. But he said the situation is more akin to the situation in *Peters*.

447. Mr. Boyer also argued that he had put other documents to Dr. Alshigagi during his earlier cross-examination for the purpose of challenging Dr. Alshigagi's credibility, that these documents had not been previously disclosed and that no objection had been raised by Ms. Carter regarding the use of those documents for that purpose.

448. Mr. Boyer submitted that the duty of disclosure in administrative proceedings is not as high as in criminal proceedings (*Litchfield v CPSA,* 2005 ABQB 62) Mr. Boyer submitted that procedural fairness requires simply that the Investigated Member knows the case against him or her. Here, Mr. Boyer

submitted that the case is that Ms. [redacted] said she and Dr. Alshigagi first met in 2019, exchanged some texts, went for coffee, and the relationship became sexual in May of 2019. Mr. Boyer argued Dr. Alshigagi knew that and also knew Ms. [redacted] had all of their texts. Dr. Alshigagi could have requested the texts or applied to obtain them (*Kennedy v College of Veterinarians of Ontario*, 2018 ONSC 3603).

449. Mr. Boyer also submitted that there is no duty on a regulatory body to obtain and disclose all the available evidence in relation to a charge whether the investigator considers the evidence relevant or not (*Harrison v LSA* 2005 ABCA 265). The purpose of an investigation is to determine whether there is sufficient evidence to proceed to a hearing and the onus is on the Complaints Director to demonstrate on a balance of probabilities that unprofessional conduct has occurred.

450. Furthermore, Mr. Boyer submitted that not all issues of late disclosure are breaches of natural justice, and that there are ways to address fairness concerns. For example, in *Karklins v Toronto (City) Police Service* (2010 ONSC 747), the Court noted that a potential remedy for non-disclosure would have been to allow additional cross examination, but this remedy was not requested.

451. Mr. Boyer conceded that the 2019 Texts could have been obtained previously but argued that on the case law, there was no duty on Mr. [redacted] to obtain all of Ms. [redacted] text messages. Furthermore, when the 2019 Texts were disclosed to the Complaints Director, they had been disclosed immediately to counsel for Dr. Alshigagi.

452. Mr. Boyer disagreed with Ms. Carter's position that the relevant case law was case law relating to the reopening of a hearing or adducing new evidence to prove the allegations. He said the 2019 Texts were brought forward to challenge Dr. Alshigagi's credibility. He argued that the cases Ms. Carter provided are distinguishable as they are not in the context of professional discipline proceedings. He said the issue was not a disclosure issue because disclosure had been provided. What was in dispute was a new record provided to the Complaints Director, which had been disclosed promptly.

453. Mr. Boyer stated that he understood the reason for the objection because the 2019 Texts cut to the heart of the story.

454. Mr. Boyer also said in terms of all of the text messages now received, Dr. Alshigagi had the option of getting those records and cross-examining Ms. [redacted]. He repeated this is not a new evidence case, but a cross-examination situation and it is nothing out of the ordinary.

455. In reply, Ms. Carter reiterated that the situation before the Hearing Tribunal was that Mr. Boyer had closed his case and the failure to disclose the 2019 Texts at this stage in the proceedings was clearly a breach of natural justice.

She argued that an adjournment was not a fair remedy. She also argued that it was the Complaints Director who chose not to ask for all of the texts, because if Mr. [redacted] had asked, perhaps Ms. [redacted] would have produced them.

456. Ms. Carter also made submissions as to why the cases submitted by Mr. Boyer were distinguishable. In relation to the *Peters* case, Ms. Carter pointed out that Ms. [redacted] did have the information at hand and did not require additional time to produce them. In addition, unlike *Peters*, this was not an emerging circumstance, but a reopening of Mr. Boyer's case.

457. At this point the Chair asked counsel for comments about the possibility of an adjournment to allow for disclosure of all text messages and cross-examination of Ms. [redacted]. Mr. Boyer indicated that getting the records, allowing for a cross-examination of Ms. [redacted] and completing the cross-examination of Dr. Alshigagi would be a fair approach. Ms. Carter asked for permission to speak to Dr. Alshigagi and then advised that Dr. Alshigagi requested the Hearing Tribunal to provide its ruling. She advised that he did not want an adjournment because of the stress on his wife and family, the financial burden on him and the length of time the proceedings had been going on.

458. Counsel also agreed that the Hearing Tribunal should make its ruling without having seen the 2019 Texts in issue.

459. Counsel agreed that the Hearing Tribunal would adjourn Dr. Alshigagi's cross-examination and proceed to hear evidence from the next witness before deliberating and making its ruling on the use of the 2019 Texts. The evidence of the next witness will be set out below.

460. The Hearing Tribunal carefully considered the arguments of counsel on the 2019 Texts.

461. The Hearing Tribunal accepted the representations made by Mr. Boyer that the Complaints Director did not receive copies of the 2019 Texts until they were sent to Mr. Boyer by Ms. [redacted] during Dr. Alshigagi's testimony and that they were promptly disclosed by him to counsel for Dr. Alshigagi thereafter.

462. Ms. Carter argues that there was an obligation on the investigator to obtain copies of all of Ms. [redacted] text messages and to disclose them. She also argues that there was an obligation on Ms. [redacted] to provide all of her text messages if those were requested. The Hearing Tribunal has no evidence as to what was requested or provided by Ms. [redacted]. The Hearing Tribunal only has copies of the texts that had been marked during Ms. [redacted] testimony.

463. Mr. Boyer indicated that both parties knew that Ms. [redacted] had texts in addition to those which were disclosed. The Hearing Tribunal has no evidence on this issue either. Both parties argue that the other party should

have taken steps to obtain all texts in Ms. [redacted] possession. It appears neither did. The Hearing Tribunal understands that copies of all of the texts were obtained by the investigator after this issue arose in the hearing.

464. The Hearing Tribunal agrees that if the 2019 Texts are authentic and might possibly be relevant, it may have been reasonable for Mr. [redacted] to obtain them in the course of his investigation. In the absence of any evidence around this issue, the Hearing Tribunal is not prepared to accept Mr. [redacted]'s failure to obtain the 2019 Texts earlier is a breach of any investigatory obligation that, in and of itself, justifies Dr. Alshigagi's objection to the use of these records.

465. The Hearing Tribunal accepts the submissions of the Complaints Director with respect to the scope of the investigation. There is some discretion involved on the part of the investigator with respect to the scope of the investigation, what information may be relevant and what information is obtained.

466. The Hearing Tribunal is not prepared to conclude that there was an obligation on Dr. Alshigagi to request copies of the 2019 Texts before the hearing either.

467. The central issue at the hearing is whether there was a sexual relationship between the Complainant and the Investigated Member after the Complainant became his patient in February of 2019. Text messages that tend to prove or disprove such a sexual relationship are clearly relevant to this issue.

468. Neither party seems to be suggesting to the Hearing Tribunal that the 2019 Texts tend to prove or disprove a sexual relationship. In fact, Ms. Carter argued that one reason the 2019 Texts should not be admitted is because they do not prove a sexual relationship and therefore would not make any difference to the outcome of the hearing. Presumably if the 2019 Texts disproved the sexual relationship Dr. Alshigagi would not be objecting to their use. On behalf of the Complaints Director, Mr. Boyer says he is not seeking to put the 2019 Texts into evidence to prove the allegation of a sexual relationship in 2019, but for the purpose of challenging Dr. Alshigagi's credibility.

469. The Hearing Tribunal considers itself to have the discretion to allow the use of non-disclosed documents for cross-examination on credibility in appropriate circumstances. The Hearing Tribunal agrees with Mr. Boyer's submissions that if that is what he is seeking to do, that is not the same as applying to re-open his case to adduce evidence, or the same as applying to adduce new evidence after the hearing is concluded. The Hearing Tribunal also agrees with Ms. Carter's position that one of the considerations for the Hearing Tribunal in deciding whether to allow Mr. Boyer to use the 2019 Texts is whether the documents should have been disclosed earlier and the reasons why they were not.

470. The Hearing Tribunal accepts that the 2019 Texts were not disclosed earlier because the Complaints Director did not have them, and once they were received, they were disclosed promptly. The Hearing Tribunal does not know whether there was non-disclosure on the part of Ms. [redacted] in the sense that she was asked for and did not provide the 2019 Texts. Regardless, the Hearing Tribunal does not consider Ms. [redacted] non-disclosure to be relevant.

471. As indicated during its oral ruling on this issue the Hearing Tribunal is mindful of the obligations of procedural fairness owed to a regulated professional in proceedings such as this one. The Hearing Tribunal is also mindful of the importance of the Hearing Tribunal receiving material evidence relating to the matters before it. The Hearing Tribunal also considered the position of Dr. Alshigagi that an adjournment and any lengthening of the hearing would add to the stress and financial burden he has already experienced.

472. Taking all of the submissions into account, the Hearing Tribunal considered the most appropriate process to be:

- The immediate disclosure to counsel for Dr. Alshigagi of all of the text messages between Ms. [redacted] and Dr. Alshigagi;
- An adjournment of a reasonable length to allow Dr. Alshigagi and his counsel to review the text messages and take steps to investigate their authenticity and adduce additional information in response;
- An opportunity for counsel for Dr. Alshigagi to cross-examine Ms. [redacted] regarding the newly disclosed text messages;
- The continuation of the cross-examination of Dr. Alshigagi on the basis that Mr. Boyer may put to him the 2019 Texts during that cross-examination.

473. This procedure appropriately addresses the concerns raised by counsel for Dr. Alshigagi regarding the authenticity of the 2019 Texts and the right to cross-examine on them. The Hearing Tribunal understands that Ms. Carter also takes the position that earlier disclosure of the 2019 Texts might have impacted the defense strategy. However, since Mr. Boyer only intends to use the 2019 Texts to challenge Dr. Alshigagi's credibility with respect to the timing of his sexual relationship and since Dr. Alshigagi's sworn evidence is that the relationship ended before 2019, the Hearing Tribunal does not understand how there is any prejudice to Dr. Alshigagi if this process is followed. Finally, the weight to be given to the cross-examination on the 2019 Texts remains in the hands of the Hearing Tribunal.

474. The Hearing Tribunal advised the parties of this ruling and that if Dr. Alshigagi did not want to cross-examine Ms. [redacted] or request an adjournment, it would allow Mr. Boyer to cross-examine on the 2019 Texts.

475. The Hearing Tribunal granted Ms. Carter an adjournment to discuss the ruling with her client. Following that adjournment, Ms. Carter advised that her client did not wish her to cross-examine on the 2019 Texts and indicated that Mr. Boyer could proceed with his cross-examination.

476. Mr. Boyer displayed on the video screen a copy of some text messages dated April 26, 2019, and asked Dr. Alshigagi whether he recognized the texts. Dr. Alshigagi stated he had tried to recall all his messages with Ms. [redacted] but it was challenging because these messages were six years ago. He said he could not confirm this was the full or exact conversation between him and Ms. [redacted] because Ms. [redacted] could have deleted messages or lines on her phone. He also said that he had already confirmed his unprofessional conduct of texting Ms. [redacted] between 2019 and 2023 and took full responsibility. Finally, Dr. Alshigagi said that he was not sure why Ms. [redacted] had kept the message until now or whether she had altered or deleted anything from the conversation.

477. Mr Boyer then read the following to Dr. Alshigagi from the 2019 Texts:

Hi, it's [redacted]*.*

Is it unethical that I'm texting you? I don't want to get you in trouble.

and the following message from Dr. Alshigagi:

Hi,[redacted]*, what trouble ??* (emoji)

478. Dr. Alshigagi said he could not confirm the exchange but even if this was a conversation they had, and "if I—I can partially—let's say partially recall any conversation with her" he had already testified that he had broken up with Ms. [redacted] in January of 2019. He said on the first visit to his clinic, he explained to Ms. [redacted] that it would be unethical to continue any romantic or previous relationship. He said this was Ms. [redacted] attempt to reopen the relationship and why she said it was unethical. He said his response to her was all cautious, polite and "in some point sarcastic".

479. Mr. Boyer then referred Dr. Alshigagi to text messages discussing going for coffee dated April 27, 2019. He read out a message from Ms. [redacted] stating:

I'm not sure, it's just coffee. That's innocent enough, correct?

and a response from Dr. Alshigagi:

Yes, of course, just coffee, no doubt.

480. Dr. Alshigagi said that he had conversations with Ms. [redacted] on her last visit in 2019 before this (he thought in March) and she was still pushing to go out with him again and that was why she was reminding him it was just coffee. Dr. Alshigagi repeated that he could not remember the messages but was testifying based on what he understood from seeing them.

481. Finally, Mr. Boyer asked Dr. Alshigagi about other text messages allegedly exchanged between him and Ms. [redacted] on April 27, 2019 referring to an overnight snowfall. Dr. Alshigagi could not remember whether there was snowfall on the night of April 26, 2019.

482. Mr. Boyer asked that the Hearing Tribunal mark as an exhibit a news story from April 27, 2019, about a heavy snowfall overnight and submitted that the Hearing Tribunal could take judicial notice of certain facts including the fact there was snowfall the night of April 26, 2019. The article was marked as Exhibit 50.

483. On re-direct examination by Ms. Carter Dr. Alshigagi asked to clarify his previous evidence regarding his chaperone experience in relation to the 2013 undertaking. Dr. Alshigagi said he had not recalled the 2013 chaperone undertaking because it had been updated twice. He said when he looked back at his documents he found an updated copy with a condition saying that if he was unable to have a chaperone, that was okay. He also said he moved his practice to Edmonton in April-May 2014 and did not open his clinic for 3 months and the majority of his visits before that were emergency room-based. He stated these are the reasons why he initially did not recall the chaperone undertaking from 2013.

484. Dr. Alshigagi also wanted to clarify his answer about previous boundaries training. He said he had not had any prior training because he thought Dr. Boyer was asking about CPSA training, and his previous training was outside of the CPSA. He also said his memory did not go back to 2013 and 2014. He acknowledged he took a boundaries course in September 2013. He attributed this to his memory not being accurate all the way back to 2013. In relation to this testimony, the following exhibits were marked:

    Exhibit 51: Letter from Dr. [redacted] at CPSA re: undertaking

    Exhibit 52: Letter from [redacted] with attached certificate of course completion

    Exhibit 53: Letter from CPSA to [redacted]

485. Dr. Alshigagi testified the certificate of course completion arose out of an issue with a nurse working at the clinic he was at. There was a complaint against him and as a result he was asked to take the course. He could not recall the details of the complaint but agreed it was related to doing something inappropriately sexually.

486. Ms. Carter also indicated that Dr. Alshigagi wanted to clarify Ms. [redacted] height, and he referred to his patient chart for her February 4,2019 clinic visit which showed her measured height at 174 cm, which he advised is 5 ft 8.

487. On re-cross-examination, Mr. Boyer asked Dr. Alshigagi to identify the complaint involving the nurse that led to the chaperone undertaking and the complaint was marked as Exhibit 54.

488. The Hearing Tribunal asked Dr. Alshigagi why he had felt uncomfortable with Ms. [redacted] in a clinical setting. He said it was because she always asked for money and prescriptions and tried to make him feel guilty.

489. The Hearing Tribunal also asked whether Ms. [redacted] had ever threatened him. He said she had and referenced the voicemail message played previously for the Tribunal which he said was a threat she would commit suicide and he should 'take this seriously". He also said that during the first or second visit to the clinic she told him, "you will continue financial help me (sic) or I know—I know everything about you." He considered this a threat.

490. The Hearing Tribunal asked Dr. Alshigagi what he meant by his testimony that when he began the PROBE course he quickly recognized he was deficient in some boundaries. He said he realized he should not have accepted Ms. [redacted] as a patient, that he failed to ask the CPSA for help, he should not have continued texting her, should not have kissed her and should not have helped her financially, but he was in a situation of mixed feelings of fear and pressure.

491. The Hearing Tribunal also asked about Dr. Alshigagi's comments about physicians in Libya being guided by religion and tradition. Dr. Alshigagi said he is Muslim and his Muslim faith directs that relationships outside of marriage are prohibited and tradition also imposes a similar restriction. He could not identify any other rules that a Libyan physician would draw from in terms of relationships with their patients.

492. In response to questions from the Hearing Tribunal, Dr. Alshigagi stated Ms. [redacted] was in the same apartment from 2017-2023 and the apartment is located two blocks west of his clinic. He denied his sexual encounters with Ms. [redacted] were associated with any money payments and said Ms. [redacted] would ask for money separately. He stated he felt sorry for her hardships and tried to help by giving her money.

493. Finally, the Hearing Tribunal asked Dr. Alshigagi if he was able to indicate how long he would have been in the room with Ms. [redacted] on visits where he used the 08.19 billing code. He said usually at least 15 or 20 minutes.

494. The Hearing Tribunal did not find Dr. Alshigagi to be a reliable or credible witness on various aspects of his testimony. In particular, the Hearing Tribunal does not accept Dr. Alshigagi's evidence that he met Ms. [redacted] before she became his patient or his evidence that he did not have a sexual relationship with Ms. [redacted] after she became his patient in February of 2019.

495. There are a number of reasons why the Hearing Tribunal rejects Dr. Alshigagi's evidence on these key issues.

496. First, Dr. Alshigagi gave evidence in chief that was clearly inaccurate and which he changed after cross-examination:

- Regarding his previous experience with chaperones:
  - When testifying about the chaperone notes in his chart prior to Ms. [redacted] complaint Dr. Alshigagi said "…I never have any chaperone rules or undertaking with any patient, so I don't know exact rules and how a chaperone should be."
  - When Mr. Boyer put to Dr. Alshigagi that he had said he had no previous chaperone undertaking, Dr. Alshigagi denied he had said this, although he clearly had.
  - Contrary to what he had testified in chief, the evidence shows Dr. Alshigagi signed an undertaking in October of 2013 and a second undertaking in March of 2014.
- Dr. Alshigagi tried to explain his failure to refer to the 2013 Undertaking on the basis of his memory and on the basis that the Undertaking was short and informal. Dr. Alshigagi also said he did not remember the three-year Undertaking at all. The Hearing Tribunal does not accept this evidence. The 2013 and 2014 Undertakings arose out of a complaint by a nurse of sexual impropriety. The Hearing Tribunal does not believe that a physician who had been subject to such a complaint and undertakings arising from such a complaint would simply forget about them, particularly given that the 2014 Undertaking was three years, expiring in March of 2017.

497. Second, Dr. Alshigagi gave evidence that the Hearing Tribunal considered inconsistent with written or video evidence.

- He wrote in his response to the complaint that he did not use his position in the doctor-patient relationship with Ms. [redacted] to procure intimacy. On cross-examination he denied this statement was untrue because he was using "intimacy" to mean sexual intercourse. When it was pointed out that in his response to the complaint he had referred to his physical interaction with Ms. [redacted] on February 23, 2023, as an "intimate moment", he said in this context he was using intimacy as having a larger definition, but that it might lead to intercourse.
- Dr. Alshigagi testified that from the time of Ms. [redacted] first attendance at his clinic, he was uncomfortable with her. He testified that he discouraged communications and only responded because Ms. [redacted] kept pushing him and he felt threatened. The Hearing Tribunal considers this evidence to be entirely at odds with the 2023 text exchanges

between Dr. Alshigagi and Ms. [redacted] and their physical and verbal interactions in the February 23, 2023 video recordings.

The video evidence of the February 2023 clinic visit shows Dr. Alshigagi rise from his chair and approach Ms. [redacted] to hug and kiss her. During the audio of the February 23, 2023 visit, and after the kissing sounds, Dr. Alshigagi asks Ms. [redacted] when he can see her and says he can stop by that day if she wants. This is not consistent with his evidence that he had broken things off four years earlier and had tried to distance himself from her since 2019. It is not in any way consistent with Dr. Alshigagi's evidence that he had ended any personal relationship with Ms. [redacted] before 2019.

Elements of the 2023 text messages are sexualized and not reflective of an individual who is scared and trying to distance himself from someone else. Furthermore, in his response to the CPSA, Dr. Alshigagi said that at the time of the February 23, 2023 visit he had stopped responding to Ms. [redacted] text messages. On cross-examination he said what he had meant was that he was taking longer to respond.

- Dr. Alshigagi did not deny that the recording entered into evidence of a conversation between him and Ms. K. [redacted] (Exhibit 36) was an accurate recording of their discussion. However, he denied that during the telephone conversation he was trying to coach Ms. K. [redacted] about what to say to the CPSA investigator. His evidence was that Ms. K. [redacted] had issues with her memory, was not taking medications and had lost confidence and he was just telling her to tell the truth.

  The Hearing Tribunal cannot reconcile that explanation with the audio recording itself. It is clear from that recording that Dr. Alshigagi is telling Ms. K. [redacted] that he wants her to say certain things to the investigator. In particular, he is clearly asking her to say that Ms. [redacted] was his girlfriend before she was his patient. At one point there is the following exchange:

  Ms. [redacted]: *I don't know, but my personal point of view, I still don't like to tell that she's your girlfriend.*

  Dr. Alshigagi: *If you don't add this, I'm out. Done. So it is up to you.*

- The content of Exhibit 36 was extremely troubling to the Hearing Tribunal. The Hearing Tribunal considers this recording not only to contradict Dr. Alshigagi's testimony about the purpose of the call, but his evidence that his relationship with Ms. [redacted] pre-dated her time as a patient. If Ms. [redacted] was actually Dr. Alshigagi's girlfriend prior to becoming a patient, his reference in the recording to this fact being part of a "plan" by his former lawyer to prevent Dr. Alshigagi from losing his license makes no sense.

- Dr. Alshigagi also acknowledged that he sent Ms. K. [redacted] the voicemail message recording marked as Exhibit 35. In that message Dr. Alshigagi says:

  So I just want you to say that you and T[redacted] was there at the end of the day and both of you guys here at the same time, but you are not actually positive which day it is. But you were not alone. Also I would like you to-I don't want you to say anything about she was drunk. I don't want you to mention she comes here at the clinic drunk at all.

  This message confirms that, contrary to Dr. Alshigagi's testimony, he was trying to coach his MOAs as to what to say to the CPSA investigator.

- Dr. Alshigagi testified that prior to her CPSA interview Ms. K. [redacted] was distressed and he was trying to comfort and reassure her. The Hearing Tribunal does not view that explanation as consistent with the recordings it heard. It is Ms. K. [redacted] who sounds logical and composed and Dr. Alshigagi who sounds increasingly agitated at Ms. K. [redacted]'s reluctance to do what he is telling her to do.

- In explaining why he had requested a chaperone on the February 23, 2023 visit, Dr. Alshigagi testified that prior to the February 23, 2023 clinic there had been a long gap in seeing Ms. [redacted] and he decided with the staff if Ms. [redacted] started coming again, he needed someone to be there. However, the billing information indicates he had seen her on January 4, 2023 and January 24, 2023.

- Dr. Alshigagi's evidence about the 2019 Texts was also difficult for the Hearing Tribunal to accept. The Hearing Tribunal recognizes that these texts were not authenticated by Ms. [redacted] and that Dr. Alshigagi testified he did not remember them, but his attempts to explain the texts as Ms. [redacted] pushing to see him, and his responses being "light and sarcastic" did not strike the Hearing Tribunal as reasonable or plausible. Some of the texts relate to meeting for coffee. Dr. Alshigagi stated these texts reflect efforts Ms. [redacted] made to try to rekindle their personal relationship. The Hearing Tribunal found the tone of the texts far more consistent with communications between two people initiating a personal relationship than between a person trying to push herself on a former partner and a former partner who had made it clear their relationship was over.

- Dr. Alshigagi testified that during the time of his sexual relationship with Ms. [redacted] (2017-2019) they had several sexual encounters in her apartment. However, Ms. [redacted] medical documentation references her having a roommate/girlfriend at this time and that she broke up with this individual in 2019.

- Dr. Alshigagi testified that when he met Ms. [redacted] in 2017, she appeared normal and healthy. However, her medical record documents that in 2017 she had several ongoing concurrent medical issues including numerous ER visits for psychiatric issues (depression, anxiety), alcohol abuse, self-harm, suicidal ideations and polysubstance abuse. Additionally, she had been involved in a motorcycle accident in 2016 leading to issues with her knee requiring surgery and chronic pain which was felt to be the nidus of her subsequent opioid addiction. Upon review of this medical documentation, the Hearing Tribunal considered the medical record inconsistent with Dr. Alshigagi having met a normal and healthy Ms. [redacted] in 2017 as he testified.

- Dr. Alshigagi did not testify on direct examination that there were chaperones at all or the majority of his visits with Ms. [redacted]. On cross-examination he was asked about Ms. T. [redacted]'s evidence that there were chaperones at most of the visits, and the corresponding lack of chaperone notes in Ms. [redacted] chart. Dr. Alshigagi blamed this on the staff's failure to make notes. But both Ms. T. [redacted] and Ms. [redacted] were clear they understood the responsibility to make notes. The Hearing Tribunal accepts Ms. [redacted] evidence that there were no chaperones present at her visits. The testimony of Dr. Alshigagi and Ms. T. [redacted] to the contrary in the face of the chart (even as altered) is not supportable.

498. Third, the Hearing Tribunal found some of Dr. Alshigagi's evidence around certain events to be inherently inconsistent or implausible. For example:

- Dr. Alshigagi purported to have a very clear recollection of his first meeting with Ms. [redacted], which he says occurred in 2017. He recalled that he was buying coffee at Starbucks when [redacted] and Ms. [redacted] came in and that Ms. [redacted] was wearing jeans and a white shirt. He recalls that he bought them a coffee or lemonade. However, he was vague about the location of the Starbucks, saying it was "on Jasper", even though he also described this Starbucks as a place where he habitually would get a drink after work.

- Dr. Alshigagi said that he made it clear to Ms. [redacted] that he did not feel comfortable having her as a patient and would only assist her if her family physician was not available. However, Dr. Alshigagi saw Ms. [redacted] frequently during this period of time, as reflected in his billing record for her, and his chart notes show he was initiating follow-up appointments.

- Dr. Alshigagi said that he ended his relationship with Ms. [redacted] at a restaurant in Oliver Square in the afternoon after he finished work. He said Ms. T. [redacted] saw him and Ms. [redacted] when they were leaving, and Ms. [redacted] looked at him. Ms. T. [redacted] said she saw Dr. Alshigagi with a woman at a restaurant on day. She did not know who the woman was. Both Ms. T. [redacted] and Dr. Alshigagi testified that the day after

this, he called Ms. [redacted] into his office and told her this woman was his girlfriend. It did not make sense to the Hearing Tribunal that Dr. Alshigagi would consider it necessary to explain to his MOA being at a restaurant with a woman, or that he would describe Ms. [redacted] as his girlfriend when he allegedly had been trying to extricate himself from the relationship for several months and had ended the relationship that day. Dr. Alshigagi testified to making every effort to hide his sexual relationship with Ms. [redacted] from his wife. He said his office staff knew he was married and had children. In the circumstances the Hearing Tribunal could not accept this event had occurred. The Hearing Tribunal rejects this evidence as a deliberate effort to fabricate some evidence of a pre-existing relationship.

- Dr. Alshigagi also testified that he knew that Ms. T. [redacted] had told the other MOAs about seeing Dr. Alshigagi with Ms. [redacted] and Dr. Alshigagi's explanation that she was his girlfriend. But Ms. [redacted] denied knowing about this and clearly Ms. K. [redacted] was resisting telling the CPSA that she knew Ms. [redacted] was Dr. Alshigagi's girlfriend.

- Dr. Alshigagi acknowledged that he did not have Ms. [redacted] consent to request her medical record from Dr. [redacted] in 2024 (i.e., after she stopped seeing him as a patient). He stated he needed the information to answer questions from the CPSA but no evidence was produced showing the CPSA asked him for information about Ms. [redacted] care extending into 2024. In addition, in the letter to Dr. [redacted], Dr. Alshigagi claims to be Ms. [redacted] physician. Nowhere does he suggest he requires this information for a CPSA matter. Nor could Dr. Alshigagi explain how he appears to have come into possession of copies of Ms. [redacted] medical records that were accessed and downloaded in 2024. When Mr. Boyer put to Dr. Alshigagi that he had downloaded the document from Netcare without authorization, Dr. Alshigagi said he did not know if "it was him or somebody else".

- Dr. Alshigagi maintained he texted Ms. [redacted] frequently before 2019 and that he paid her money. However, there was no evidence provided by Dr. Alshigagi of text messages or bank transfers to Ms. [redacted] prior to 2019. The Hearing Tribunal understands that Dr. Alshigagi's evidence was that he did not have texts because he deleted them and had changed his phone, but Dr. Alshigagi did not suggest that he had made any efforts to obtain records relating to that time period. Given the importance of this type of evidence to the matters at issue, this struck the Hearing Tribunal as odd.

499. Fourth, the Hearing Tribunal is satisfied that the evidence demonstrates that Dr. Alshigagi tried to interfere with witness testimony to buttress his evidence that his sexual relationship with Ms. [redacted] pre-dated their physician-patient relationship. Furthermore, aspects of the evidence given by

Dr. Alshigagi and witnesses called on his behalf seemed coordinated or rehearsed. For example:

- The recordings provided by Ms. K. [redacted] to Mr. [redacted] clearly demonstrate that Dr. Alshigagi was pressuring Ms. K. [redacted] to say Ms. [redacted] was his girlfriend. This evidence ceased to be hearsay evidence when Dr. Alshigagi confirmed that the recording was of him and Ms. K. [redacted]. Dr. Alshigagi did not deny the recording was accurate. He tried to explain it as an effort on his part to convince Ms. K. [redacted] to tell the truth. As noted above, the Hearing Tribunal does not accept that explanation.

- There was evidence from Ms. T. [redacted], Ms. [redacted] and Dr. Alshigagi of a meeting taking place before the CPSA interviews where there were discussions about what each of them remembered about Ms. [redacted]. Ms. [redacted] acknowledged that after this meeting they were all on the same page, although on re-direct she said the meeting was not for that purpose. While the Hearing Tribunal can accept that the MOAs were nervous about the interviews and might not have appreciated that such a meeting might be viewed with suspicion, the fact that the MOAs met to discuss their evidence was of concern to the Hearing Tribunal. It was clear from Dr. Alshigagi's evidence that he was aware of what was discussed at this meeting (for example that it was agreed that Ms. K. [redacted] was the chaperone on the last visit).

- The similarity of the evidence of Ms. [redacted] and Ms. T. [redacted] on aspects of the evidence that might be seen as favourable to Dr. Alshigagi was also troubling to the Hearing Tribunal. For example, both said that all or the majority of Ms. [redacted] visits were very short, when this was not consistent with the billing records. Similarly, the evidence of both of them is that Ms. K. [redacted] went into the clinic room with Dr. Alshigagi on February 23, 2023, and left within a minute. This evidence was directly contradicted by the video recording of that visit.

- The audit log of Dr. Alshigagi's patient chart for Ms. [redacted] reveals chaperone note entries made for several clinical visits including the February 23, 2023 visit. The chaperone notes were entered on the day Mr. [redacted] visited Dr. Alshigagi's clinic. Dr. Alshigagi denied accessing and altering Ms. [redacted] chart on September 19, 2023, but was unable to explain the changes made on that day to the chart or who made the amendments. Neither Ms. [redacted] nor Ms. T. [redacted] admitted making them. Instead, the three of them implied that Ms. K. [redacted] would have done this, presumably entirely of her own volition. This suggestion did not seem reasonable to the Hearing Tribunal.

- The Hearing Tribunal also found the evidence from Dr. Alshigagi, Ms. [redacted] and Ms. T. [redacted] regarding Ms. K. [redacted]'s erratic behaviour at the clinic to be entirely inconsistent with her employment history and

with the recording of Ms. K. [redacted]'s conversation with Dr. Alshigagi. The Hearing Panel could only conclude that Dr. Alshigagi, Ms. [redacted] and Ms. T. [redacted] had discussed and agreed in advance to try to discredit her. The only reason for this would be to undermine any evidence she might give that might be unhelpful to Dr. Alshigagi.

500. Finally, the Hearing Tribunal finds Dr. Alshigagi's demeanour and his responses to difficult questions undermined his credibility. The Hearing Tribunal fully appreciates that it is difficult to assess credibility on the basis of demeanour and that there may be many reasons for a witness to present in a particular way that have nothing to do with credibility. The stress of testifying is one reason. Cultural differences and language issues are other reasons, and the Hearing Tribunal understands that English is not Dr. Alshigagi's first language. The Hearing Tribunal did not place much weight on demeanour as a factor in relation to Dr. Alshigagi but did consider his presentation inconsistent and his answers to some questions evasive and defensive. He purported to have clear recollection of certain matters in chief but became vague and said he did not recall things when challenged.

501. Overall, the inconsistencies and implausibility of aspects of Dr. Alshigagi's testimony and the evidence of his efforts to influence the testimony of other witnesses as outlined above severely eroded his credibility and the overall believability of his version of events pertaining to Allegation 3 e. and 3 f.

Ms. K. [redacted]

502. As noted above, although Ms. K. [redacted] was not called to testify, the Hearing Tribunal admitted evidence originating from her. The evidence that the Hearing Tribunal admitted in this regard comprises:

- The transcript from her November 2024 interview with Mr. [redacted] (Exhibit 23);
- Copies of messages provided by her to Mr. [redacted] (Exhibit 24);
- A document referred to as "2024-04 undated script of interview stories to tell" provided by her to Mr. [redacted] (Exhibit 25);
- A WhatsApp recording provided by her to Mr. [redacted](Exhibit 35);
- A recording of a conversation between her and Dr. Alshigagi provided by her to Mr. [redacted] (Exhibit 36);
- A transcript of Exhibit 35 (Exhibit 26);
- A transcript of Exhibit 36 (Exhibit 27).

503. The Hearing Tribunal admitted this evidence when it was tendered, recognizing that it would have to carefully consider what weight, if any, to put on this evidence in relation to the other evidence before it.

504. The Hearing Tribunal did not put any weight on the interview transcript of Ms. K. [redacted] of November 21, 2024 in the absence of direct testimony and an opportunity for cross-examination. The Hearing Tribunal considered the transcript to be hearsay. Given that Ms. K. [redacted] had apparently provided inconsistent testimony in a previous interview, and that the CPSA could have compelled her attendance, the Hearing Tribunal did not consider the transcript to be necessary or reliable so as to warrant its consideration.

505. The Hearing Tribunal was also not prepared to accept that Exhibit 25 was a script prepared by Dr. Alshigagi and given to Ms. K. [redacted] in the absence of Ms. K. [redacted]'s evidence on that point and an opportunity to cross-examine her. The document was clearly some sort of script, but the Hearing Tribunal could not conclude that Dr. Alshigagi had written it without direct evidence to that effect. Neither Ms. T. [redacted] nor Ms. [redacted] were asked about this document.

506. The Hearing Tribunal placed reliance on Exhibits 24, 26 and 27 and the transcripts of the recordings (Exhibit 35 and 36). Exhibits 24, 26 and 27 were authenticated by Dr. Alshigagi and are no longer hearsay. The Hearing Tribunal had the opportunity to review the messages and recordings themselves and to hear Dr. Alshigagi's evidence about them.

507. Dr. Alshigagi, Ms. [redacted] and Ms. T. [redacted] all testified that Ms. K [redacted] had significant psychological issues and was erratic and paranoid. Those assertions did not change the Hearing Tribunal's assessment of what it read and heard in Exhibits 24, 26 and 27. The Hearing Tribunal placed significant weight on these exhibits in its assessment of Dr. Alshigagi's credibility.

Closing Submissions from Counsel for the Complaints Director

508. Mr. Boyer summarized the roles of the Hearing Tribunal which include: making findings of facts, identifying the standard against which the conduct is judged and applying the facts as found to the standard (*Walsh v Council for Licensed Practical Nurses*, 2010 NLCA 11). He pointed out the civil standard of proof applies and the Complaints Director is tasked with demonstrating on the balance of probabilities that the allegations in the Notice of Hearing are true (*F.H. v. McDougall*, 2008 SCC 53).

509. Mr. Boyer citied case law to address the issue of procedural fairness, including *R. v. Lyons*, 1987 CanLII 25 (SCC), *Pearlman v. Manitoba Law Society*, 1991 CanLII 26 (SCC), Strofolino *v. University of Toronto,* (2001 CanLII 28331 (ONSC) and *Intact Insurance v. Parsons,* 2021, ABCA 123).

510. Mr. Boyer submitted that there is more than adequate evidence to support Dr. Alshigagi's admissions in Exhibit 2 and that the admitted conduct amounts to unprofessional conduct. He acknowledged that Ms. [redacted] evidence does not support allegation 3 d. and therefore this particular is unproven.

511. Mr. Boyer stated there is no dispute that there was a sexual relationship between Dr. Alshigagi and that the sexual encounters occurred in her apartment. The dispute is over the timing of the relationship. Ms. [redacted] evidence is that she had no prior relationship with Dr. Alshigagi before becoming his patient. Her presenting to his clinic as a patient makes sense geographically.

512. Mr. Boyer noted several witnesses provided evidence in an attempt to assassinate Ms. [redacted] character. He cited *Faryna v Chorny*, 1951 CanLII 252 (BCCA) as an important case that provides guidance in assessing witness credibility and reliability whereby the real test of truth is how well a witness' evidence harmonizes with the preponderances of the probabilities which a practical and informed person would recognize as reasonable in that place and in those conditions.

513. Mr. Boyer also stated that Ms. [redacted] opening wording in her complaint form "In 2017…." is what started the narrative that she and Dr. Alshigagi met in 2017. He pointed out when Ms. [redacted] wrote her complaint, she was in early detox.

514. He stated that Dr. Alshigagi's description of the events in video of his February 23, 2023 clinical encounter with Ms. [redacted] is not supported by the evidence of the actual recording and transcript. He questioned the evidence of [redacted] and two MOAs working with Dr. Alshigagi that there was a sexual relationship between Ms. [redacted] and Dr. Alshigagi in 2017-2018. He stated much of this testimony was obtained through leading questions in chief and or through re-direct when the witness was brought back to change a previous answer.

515. Mr. Boyer pointed out aspects of [redacted]'s evidence including his description of Ms. [redacted] height versus what is documented in her medical chart, his combativeness in cross-examination, his description of a visible scar on Ms. [redacted] knee when they were in a sexual relationship in 2016 when Ms. [redacted] medical chart confirms that she was in a motorcycle accident in 2016 which was followed by knee surgery and a prolonged physical recovery. Mr. Boyer suggested that it was unlikely Ms. [redacted] would have been a sex trade worker during her physical recovery from her injuries. He noted a consult report dated April 3, 2017, indicating Ms. [redacted] at the time had dyed pink hair while [redacted] testified Ms. [redacted] was a "ginger". Given these discrepancies Mr. Boyer submitted that [redacted] is not a reliable witness and that his testimony is of little value to corroborate Dr. Alshigagi's version of events.

516. Mr. Boyer pointed to Ms. T. [redacted] and Ms. [redacted]'s matching testimony that a high volume of patients came through Dr. Alshigagi's clinic and that both reported nothing unusual about Ms. [redacted] clinic visits. He questioned why if such a patient caused Dr. Alshigagi so much distress they could not recall anything unique about her until her July 2023 appearance at the clinic after the date of her final clinic visit. He referred to the "script" (Exhibit 25),

the WhatsApp message from Dr. Alshigagi to Ms. K. [redacted] prior to her CPSA interview (Exhibit 26) and the recorded conversation between Dr. Alshigagi and Ms. K. [redacted] (Exhibit 27) as evidence of an orchestration of the MOAs' responses during their CPSA interviews. He submitted this evidence rendered the MOA's as unreliable in terms of the version of events they reported and their characterization of Ms. [redacted].

517. Mr. Boyer reviewed the billings for the four clinic visits specified in the one-page chaperone note at the beginning of Ms. [redacted] chart from Dr. Alshigagi's clinic. He noted the February 23, 2023 visit was billed as a full comprehensive assessment and submitted that a full assessment including history and physical is not what is captured on the video of this clinical encounter. He pointed out the same spelling error is repeated in the last 3 entries within the same brief clinic note. He noted the entry for the February 23, 2023 visit does not indicate that Ms. [redacted] asked the chaperone to leave about a minute into the visit but instead indicates the chaperone stayed in the room until the end of the visit and Ms. [redacted] left. This note does not match the MOAs' and Dr. Alshigagi's version of the events of that clinic visit.

518. Mr. Boyer also reviewed the audit log of Dr. Alshigagi's EMR for Ms. [redacted] (Exhibit 29) which indicates that Dr. Alshigagi and Ms. K. [redacted] accessed the chart shortly after Mr. [redacted] presented at the clinic on September 19, 2023. Specific clinic visits were amended on that date to include a chaperone note, including the February 23, 2023 visit entry. Mr. Boyer submitted this evidence is reflective of someone trying to deceive the regulator and throw off the investigation into Ms. [redacted] complaint.

519. Mr. Boyer submitted Ms. T. [redacted]'s and Ms. [redacted]'s description of a visit Ms. [redacted] paid to the clinic in July 2023 was part of the script provided to them (Exhibit 25).

520. Mr. Boyer noted the medical documents relating to Ms. [redacted] care in Exhibits 11 and 14 were accessed and printed April 16, 2024, shortly before the clinic MOA's were interviewed by the CPSA. The Netcare records obtained by the CPSA in Exhibit 34 were downloaded in the latter half of October 2023, after CPSA requested the records on October 13, 2023. The scope of the CPSA inquiry was records from beginning 2017- 2023, and therefore one would not expect a record from 2016, yet Dr. Alshigagi 's counsel produced such a record and claimed that it was a part of the CPSA disclosure. Mr. Boyer submitted this record came from a separate access to Ms. [redacted] records by Dr. Alshigagi. Mr. Boyer also pointed out that Dr. Alshigagi sent a written request for Ms. [redacted] records from Dr. [redacted] over 14 months after her final clinic appointment with him yet in the letter he represented himself as Ms. [redacted] physician (Exhibit 31).

521. Mr. Boyer referenced Dr. Alshigagi's religious beliefs about relationships outside of marriage which align with the CPSA Standard regarding boundary violations with patients, yet Dr. Alshigagi had testified that he had a different

understanding of appropriate doctor-patient boundaries he had learned in Libya.

522. Mr. Boyer submitted that assuming Dr. Alshigagi was honest in his billings for Ms. [redacted], his use of the 08.19G billing code is indicative of the time he spent with Ms. [redacted] in the clinic room, as opposed to the short visits indicated by staff.

523. Mr. Boyer pointed out that Dr. Alshigagi initially testified in chief that he had not had a prior chaperone undertaking and had not taken any boundary training until the PROBE course in 2025. In cross-examination, when presented with evidence to the contrary, he conceded he had prior chaperone undertakings with the CPSA and had taken a boundaries course in 2013 to resolve a prior complaint made against him. Based on Ms. [redacted]'s testimony it did not appear that Dr. Alshigagi had followed the word of his three-year chaperone undertaking with the CPSA.

524. In sum, Mr. Boyer stated that in the broad view of Dr. Alshigagi's defense, none of the points he and his witnesses made hang together. He stated starting on April 1, 2019, Bill 21 changed the sanction for having sexual intercourse with a patient to a mandatory cancellation of one's practice permit. He suggested this explained the efforts made to present Dr. Alshigagi's version of events.

525. Mr. Boyer stated the evidence demonstrates that Ms. [redacted] had significant struggles with addiction and had been in a number of treatment programs for several relapses with the final one in summer 2023. The evidence indicates she is now in a better place than where she was before.

526. Mr. Boyer stated that Ms. [redacted] Netcare record documents an individual who has suffered abuse and trauma from a young age with multiple attempts at self-harm, overdoses from drugs and alcohol and falling into addictions issues. He stated this history is being used against her in this matter and she has been characterized as a hard, manipulative woman who even scared her pimp. He submitted the evidence does not support this narrative. It is his position that Ms. [redacted] became Dr. Alshigagi's patient and then his sexual partner against a background of continuing to deal with her addictions until August 2023 when Ms. [redacted] decided to make a full disclosure of what had happened. When she made her initial disclosure to a physician in January 2023 (Dr. [redacted]) she did not disclose Dr. Alshigagi's name, which is not consistent with the narrative presented by Dr. Alshigagi's counsel that she was intent on threatening and destroying Dr. Alshigagi. There was a similar disclosure to Dr. [redacted] on August 8, 2023.

527. Mr. Boyer stated the Netcare record does not reflect a professional sex trade worker who is paying a protector a portion of her earnings. Instead, it projects a person who is struggling, not working and relying on social welfare

who got lured into the sex trade briefly but ultimately left it after being robbed by a client.

528. Mr. Boyer cited a 1992 Supreme Court of Canada case, *Norberg v Wynrib*, 1992 CanLII 65 (SCC) a companion case to *McInerney v MacDonald*, 1992 CanLII 57 (SCC). Both cases speak to the principle that a physician is a fiduciary to their patient, that there is a power imbalance and that the fiduciary must act in the best interests of the patient. Mr. Boyer submitted that *Norberg* was similar to this matter in that involved a physician who took advantage of a drug-addicted woman to get sexual favors in exchange for prescription drugs. The Supreme Court in that case outlined in detail the 1991 task force that the College in Ontario struck, which led to the creation of the zero-tolerance legislation in Ontario in 1994.

529. Mr. Boyer stated in the present matter, there is the same type of vulnerable female patient taken advantage of by Dr. Alshigagi. While getting care from Dr. Alshigagi she had more than one addiction relapse and finally started a lasting recovery in August 2023.

530. In closing, Mr. Boyer submitted that the totality of the evidence does not support Dr. Alshigagi's description of the sexual relationship occurring in 2017 and 2018. The evidence presented by Dr. Alshigagi and his witnesses had grave problems with quality and reliability. He stated this is a classic case of a physician bringing food, money and drugs for a vulnerable patient and gives her what she wants in exchange for sex. The conduct is sexual abuse as defined in the Health Professions Act. He submitted that allegations 3 e. and f. are proven on a more than sufficient basis on the balance of probabilities.

<u>Closing Submissions from Counsel for Dr. Alshigagi</u>

531. Mr. Blaibel referred to the *F.H. v McDougall* case cited by Mr. Boyer, noting it required clear, convincing and cogent evidence in this type of proceeding. He submitted that Ms. [redacted] evidence had been anything but clear, convincing or cogent.

532. Mr. Blaibel also referred to the Supreme Court decision in *R. v S (R.D.)*, 1997 CanLII 324, which confirmed trial judges are entitled to assess credibility based on factors such as testimony and demeanor. He referred to a case out of British Columbia, *Bradshaw v. Stenner* 2010 CarswellBC *2652* (BCSC), as saying credibility requires assessing trustworthiness of a witness's evidence along with sincerity and accuracy, recall and memory, consistency with independent evidence, changes in testimony and demeanor. Another Supreme Court of Canada case he referenced as authority for the proposition that a decision-maker must weigh the probative value of each witness's evidence based on factors such as demeanor, internal consistency, consistency with other evidence in determining if the evidence should be accepted in whole or in part or at all (*R. v I. (D.)* 2012 SCC 5).

533. Mr. Blaibel noted Mr. Boyer's argument regarding Dr. Alshigagi's awareness of proper doctor-patient boundaries based on his religion. He stated Dr. Alshigagi has never stated he did not know that having sex with a patient or anyone outside of marriage was not permissible. Rather, Dr. Alshigagi's evidence is that he never had sex with Ms. [redacted] when she was his patient.

534. Mr. Blaibel took issue with Mr. Boyer's characterization of [redacted] and his position on [redacted]'s demeanor. He argued that [redacted]'s frustration was with Mr. Boyer's repetitive questions that hinged at times on badgering. He stated Ms. [redacted] actions placed [redacted] in situations that were at times dangerous and required that he act violently or aggressively and that these actions were one of the reasons he cut off contact with Ms. [redacted].

535. Mr. Blaibel also took issue with Mr. Boyer's reliance on [redacted]'s testimony about Ms. [redacted] scar. He acknowledged [redacted]'s evidence about a scar on Ms. [redacted] knee from a motorcycle accident, but said [redacted] never stated when the injury had scarred over during the period that he knew her. Mr. Blaibel also argued that the debridement and irrigation Ms. [redacted] underwent in 2016 was not a major procedure and submitted that a year later she would have recovered enough to walk without a limp or obvious gait issues.

536. Mr. Blaibel stated Ms. [redacted] was not easy to cross-examine. He characterized her as constantly animated and said she screamed when [redacted] was brought up. He stated that over years, it is not known how often Ms. [redacted] changed her hair color. He stated that Ms. [redacted] was not financially destitute as Mr. Boyer had stated, as Ms. [redacted] testified she received a settlement from the 2016 motorcycle accident and with this she was able to buy a condo for over $100,000.

537. Mr. Blaibel stated that the portions of Ms. [redacted] medical chart obtained by Dr. Alshigagi show she was dishonest about her motorcycle accident and speak to her credibility.

538. Mr. Blaibel stated that because Ms. K. [redacted] did not testify at the hearing the Hearing Tribunal could not know her intentions. He stated that the "script" put into evidence by Mr. [redacted] contains details similar to the evidence provided by Ms. [redacted] and Ms. T. [redacted] because the script and their testimony was true.

539. Mr. Blaibel stated that there has been no evidence presented showing that Dr. Alshigagi and Ms. [redacted] had sex in his clinic. He stated the evidence points to kissing occurred at the February 23, 2023 clinic visit but no proof of sexual intercourse or anything of that nature beyond the kissing that was recorded. He pointed to Dr. Alshigagi's evidence that he accepted Ms. [redacted] as a patient because he felt threatened by her. He recounted Dr. Alshigagi's and Ms. T. [redacted]'s evidence that at Ms. [redacted] first clinic visit he was reluctant to see her but that Ms. T. [redacted] only put her in an exam room

after Ms. [redacted] threatened that Dr. Alshigagi would "regret it if he didn't see her".

540. Mr. Blaibel referred to Dr. [redacted]'s evidence and said she would have changed her report if she had known that a nurse did the PAP smear on Ms. [redacted] and followed up on the phone with her, as opposed to Dr. Alshigagi.

541. Mr. Blaibel noted that Mr. [redacted] wrongly identified 2017 as the year of Ms. [redacted] motorcycle accident and submitted that based on this erroneous date Mr. [redacted] had concluded that Dr. Alshigagi was dishonest. Mr. Blaibel stated there is no evidence that Ms. [redacted] had a limp or altered gait a year after her accident and again stated her 2016 knee surgery was minor in nature and that it is entirely feasible and probable that by 2017 Ms. [redacted] had regained full functionality.

542. Mr. Blaibel pointed out that Ms. [redacted] was inconsistent in her recollection of when she and Dr. Alshigagi first met. She was also inaccurate in her recollection of the year of her motorcycle accident. He stated her use of text messages to conclude she and Dr. Alshigagi met in 2019 does not mean there are no prior texts between them from 2017 and suggested Ms. [redacted] altered the text conversations.

543. Mr. Blaibel stated Ms. T. [redacted] and [redacted] both provided testimony indicating Dr. Alshigagi and Ms. [redacted] met before 2019. He stated Ms. [redacted] changed her testimony on this point several times.

544. Mr. Blaibel suggested Ms. [redacted] lied in her testimony about the date of her accident and stated Ms. [redacted] was more concerned about how Ms. Carter had obtained the copy of the knee surgery report from the Royal Alexandra Hospital and the January 2020 psychiatry consult than their contents (Exhibits 11 and 14).

545. Mr. Blaibel stated [redacted] was a reliable witness who confirmed when Dr. Alshigagi met Ms. [redacted]. He stated that [redacted]'s past should not be used against him. He stated [redacted]'s testimony about how long Ms. [redacted] worked as a prostitute proves she lied about this issue. He stated [redacted]'s evidence of Ms. [redacted] conduct in blackmailing clients matches Dr. Alshigagi's testimony about how she threatened him. He alluded to Ms. T. [redacted]'s testimony that Ms. [redacted] threatened that Dr. Alshigagi would "regret it if he did not see her". He stated there is a clear pattern of behaviour that Ms. [redacted] has not provided any evidence to rebut.

546. Mr. Blaibel suggested that Ms. [redacted] motivation for being untruthful is that she did not want to jeopardize the financial support she was getting from Dr. Alshigagi.

547. Mr. Blaibel also suggested that the CPSA was responsible for not adequately educating Dr. Alshigagi that giving money to patients is inappropriate.

548. Mr. Blaibel stated Ms. K. [redacted]'s evidence in the November 21, 2024 transcript was based on her not getting her job back at Dr. Alshigagi's clinic. He also suggested her reported mental health issues contributed to her changing her evidence. He submitted the evidence presented supports that Ms. K. [redacted] briefly chaperoned the February 23, 2023 clinic visit.

549. Mr. Blaibel noted that Dr. Alshigagi's version of events including the circumstances under which he first met Ms. [redacted], the threats Ms. [redacted] uttered to him and the February 23, 2023 clinic visit were all corroborated by independent firsthand witness accounts. Conversely, he stated Ms. [redacted] only had her own narrative of events with no corroborating evidence and that her own narrative had changed. Because of this he stated it would be impossible to find 3 e. or f. had been proven by the CPSA.

550. Mr. Boyer briefly responded indicating that Ms. [redacted] interview transcript from the CPSA had not been entered as an exhibit. He stated that the Hearing Tribunal was being asked to interpret the evidence in different ways and encouraged the Tribunal to read the transcripts and passages from the key witnesses at the hearing before making its decisions.

Decision Regarding Contested Allegations 3 d. to f.

551. The Hearing Tribunal's decision regarding the uncontested Allegations and their particulars are set out above. In short, with respect to the allegations admitted by Dr. Alshigagi (allegations 1 a. to d, 2 a. to h., and 3 a. to c.) the Hearing Tribunal found sufficient evidence of the facts to support accepting Dr. Alshigagi's Admissions and found that the admitted conduct amounted to unprofessional conduct as defined in the HPA.

552. On the basis of the submissions from Mr. Boyer, the Hearing Tribunal dismissed allegation 3 d.

553. With respect to the contested allegations 3 e. and 3 f., the Hearing Tribunal carefully considered the exhibit and oral evidence presented. As noted above, Dr. Alshigagi and Ms. [redacted] presented differing versions of the timing of their sexual relationship relative to when Dr. Alshigagi acted as Ms. [redacted] physician. There was no dispute over when he acted as her physician or that they had a sexual relationship.

554. Dr. Alshigagi stated that his sexual relationship with Ms. [redacted] occurred prior to him agreeing to act as her physician and that he ended the relationship before agreeing to act as her physician. Ms. [redacted] stated she first met Dr. Alshigagi at her February 2019 clinic visit with him and from there they developed a personal and eventually a sexual relationship which continued while she saw him as his patient

555. Overall, the Hearing Tribunal accepted Ms. [redacted] version of events over Dr. Alshigagi's version. On key points, Ms. [redacted] evidence at the hearing was

consistent with the disclosure she made about her sexual relationship with Dr. Alshigagi, to several individuals including Dr. [redacted], Dr. [redacted], Dr. [redacted] and Ms. [redacted].

556. In contrast the Hearing Tribunal found numerous inconsistencies in Dr. Alshigagi's evidence on key details. As outlined above, the Hearing Tribunal found Dr. Alshigagi and the witnesses called on his behalf to have little credibility, particularly in relation to the timing of Dr. Alshigagi's relationship with Ms. [redacted]. The only individuals with first-hand information regarding the timing of that relationship, aside from [redacted]'s evidence about the alleged Starbucks meeting, and Ms. T. [redacted]'s evidence she saw them at a restaurant are Ms. [redacted] and Dr. Alshigagi. Ultimately the Hearing Tribunal's assessment of all of the evidence is that Dr. Alshigagi's version of events was not true.

557. Based on her medical file in the exhibits, Ms. [redacted] had significant health issues prior to and during the time she was Dr. Alshigagi's patient. Her issues included psychiatric illness, chronic pain, polysubstance abuse, alcohol abuse, self-harm and suicide attempts. Her medical chart portrayed a patient who had multiple relapses of her addictions issues leading to multiple rehabilitation attempts and inpatient detox stays. During the time she was Dr. Alshigagi's patient, his prescribing of multiple drugs with abuse potential disrupted any tapering efforts being made by other physicians and contributed to multiple cycles of Ms. [redacted] falling into another relapse of her addictions after achieving a brief clinical improvement. The Hearing Tribunal placed significant weight on Dr. [redacted]'s expert report, which included a thorough and compelling analysis of Dr. Alshigagi's prescribing for Ms. [redacted]. Ms. [redacted] evidence of her eventual recognition of this cycle of brief recovery followed by going back to Dr. Alshigagi and getting more prescriptions followed by a subsequent relapse into drug use requiring rehabilitation matched what her medical record documented.

558. Ms. [redacted] testified that she felt that Dr. Alshigagi gave her prescriptions to "keep her in his orbit". She described her eventual realization that what she was doing with Dr. Alshigagi was wrong when a pharmacy confronted her about double-doctoring in late 2022 and subsequently deciding she should not be dealing with Dr. Alshigagi anymore in the interests of her health. Her medical chart verifies she then began to disclose her sexual relationship to multiple physicians in 2023 including Drs. [redacted] and [redacted] and eventually Dr. [redacted] in August 2023. Her comments documented by Dr. [redacted] describe her insight into the grim situation in which she found herself by going back to see Dr. Alshigagi because she knew she needed the Vyvanse medication or would resort to obtaining street drugs which would likely lead to her death.

559. Counsel for Dr. Alshigagi stated in his closing submissions that Ms. [redacted] motivation for her behaviour towards Dr. Alshigagi was to extract money from him. He submitted that Dr. Alshigagi testified he felt threatened by Ms.

[redacted] and feared her. Several witnesses called by Dr. Alshigagi's counsel gave evidence which portrayed Ms. [redacted] as a manipulative self-serving drug addict who was blackmailing Dr. Alshigagi. The Hearing Tribunal accepts that Ms. [redacted] may have used her personal relationship with Dr. Alshigagi to obtain money and medication from him. This is not particularly surprising to the Hearing Tribunal given Ms. [redacted] medical situation and her ongoing relapsing addictions. That fact does not negate any fault on Dr. Alshigagi's part in participating in the relationship. In addition, if Ms. [redacted] motivation for her relationship with Dr. Alshigagi was to get money from him, her decision to disclose the relationship to various doctors including Ms. [redacted] and Dr. [redacted] does not make sense as that would ensure no further money would be paid.

560. The Hearing Tribunal accepts that Ms. [redacted] perspective changed as the relationship evolved, and she realized that her dealings with Dr. Alshigagi were detrimental to her health. She testified that in 2023 she began to extricate herself from this situation and her medical chart documents the disclosures she made to several physicians about her relationship with Dr. Alshigagi. She acted in the interests of her own health when she self-presented for rehabilitation admission by Dr. [redacted]. Her motivation to improve her health is supported by her testimony and that of her current physician Dr. [redacted], who confirmed her health status, that she is attending regular follow-up with him and that she is no longer seeking early prescription renewals.

561. Evidence was presented to portray Ms. [redacted] as an unstable manipulative individual who threatened and exploited Dr. Alshigagi. The Hearing Tribunal did not hear any compelling evidence that Ms. [redacted] expressly threatened or tried to blackmail Dr. Alshigagi. Even Dr. Alshigagi did not testify to any overt threats of blackmail aside from his evidence that she told him, "she had all his information". The Hearing Tribunal does not accept that Dr. Alshigagi was afraid of or felt threatened by Ms. [redacted] in light of the February 23, 2023 recordings of their interaction on that date. Dr. Alshigagi is welcoming and engages in friendly banter. Ms. [redacted] makes no threatening comments during the encounter. It is Dr. Alshigagi who gets up from his chair and walks towards Ms. [redacted] to hug and kiss her. It is Dr. Alshigagi who offers to go to see Ms. [redacted] that evening. His behaviour is simply inconsistent with any suggestion that he felt threatened by her and feared her.

562. The fact that Ms. [redacted] started disclosing her sexual relationship with Dr. Alshigagi to other physicians in 2023 but did not identify him by name is consistent with Ms. [redacted] evidence that she cared for him and wished to protect him. The Hearing Tribunal did not find these actions to be consistent with an individual who was angry towards Dr. Alshigagi. She also expressed concern about Dr. Alshigagi finding out about what she had said and wanted the records protected. This is inconsistent with her blackmailing Dr. Alshigagi as he suggested.

563. Counsel for Dr. Alshigagi submitted in closing that Ms. [redacted] 2016 knee surgery to address an issue from her 2016 motorcycle accident was not a major procedure and that within a year she would have had full functionality. Dr. Alshigagi and [redacted] testified that at the time Dr. Alshigagi was introduced to Ms. [redacted] in 2017 she appeared normal and healthy. In contrast, Ms. [redacted] testified she had a prolonged recovery from the accident and had chronic pain stemming from it. She stated in her CPSA interview that she had a lot of road rash and felt "hideous".

564. Ms. [redacted] medical record corroborates this version of events with a description of her opioid abuse starting during her recovery from the accident. Additionally, her knee surgery was necessitated by an infection that failed to heal with antibiotic therapy. From the evidence presented, the Hearing Tribunal found that on the balance of probabilities, Ms. [redacted] likely was not entirely well in 2017 as she was still recovering from her accident and at the same time dealing with her significant ongoing psychiatric and polysubstance abuse issues. Dr. Alshigagi's and [redacted]'s description of Ms. [redacted] does not fit the circumstances. She was recovering from her accident in 2016-17, self-described as hideous, had a lot of road rash and pain but Dr. Alshigagi and [redacted] described her as healthy and normal looking.

565. Dr. Alshigagi testified that he received a voicemail from someone who he identified as Ms. [redacted] requesting money and stating that he should take this seriously. He stated Ms. [redacted] sounded "high" in the voicemail. Dr. Alshigagi conceded the message came from an anonymous number, so it was only his opinion that the voice on the message was that of Ms. [redacted]. Ms. [redacted] denied it was her. The Hearing Tribunal was not presented with any other evidence as to the source of the recording and it was not entered into evidence. The Hearing Tribunal understands this evidence was put forward as proof that Ms. [redacted] threatened Dr. Alshigagi in order to get money. The Hearing Tribunal was unable to conclude whether or not the voicemail was from Ms. [redacted], but even if it was, there is nothing in the voicemail that is inconsistent with Ms. [redacted] evidence that she asked Dr. Alshigagi for money. There was no mention of Ms. [redacted] sexual relationship with Dr. Alshigagi being disclosed if money was not paid.

566. Ms. T. [redacted] and Ms. [redacted] both described an incident a few months after Ms. [redacted] February 23, 2023 clinic appointment when Ms. [redacted] came to the clinic at the end of the day appearing drunk and demanding to see Dr. Alshigagi/Emad. Ms. [redacted] did not confirm or deny it. The Hearing Tribunal is prepared to accept that Ms. [redacted] attended at the clinic to see Dr. Alshigagi some months after the February 23, 2023 visit. The Hearing Tribunal does not see this as having negative impact on Ms. [redacted] credibility as she testified and her medical file confirms she had instances of drug addiction relapses during this time. The Hearing Tribunal does not accept that during that attendance Ms. [redacted] specifically stated that she had been Dr. Alshigagi's girlfriend before she was a patient, as alleged by Ms. [redacted] and Ms. T. [redacted]. The Hearing Tribunal considered these allegations implausible

when considered in the context of all of the evidence, including Dr. Alshigagi's attempts to convince Ms. K. [redacted] to say she knew Ms. [redacted] was his girlfriend.

567. Counsel for Dr. Alshigagi argued in closing that several witnesses including Dr. Alshigagi gave matching evidence that Dr. Alshigagi and Ms. [redacted] met and had a personal relationship before 2019 while Ms. [redacted] evidence was that they first met at the February 2019 clinic visit and from there they developed a personal and sexual relationship. From the analysis outlined above, the Hearing Tribunal did not find Dr. Alshigagi's or [redacted]'s version of events relating to this timeline believable and preferred Ms. [redacted] timeline of events. The Hearing Tribunal placed significant weight on Ms. [redacted] oral evidence along with the screenshots of text message exchanges between her and Dr. Alshigagi and the video of the February 23, 2023 clinic appointment. The Hearing Tribunal also considered the complete lack of documentary evidence of a relationship before 2019 as a relevant consideration. The Hearing Tribunal finds that the totality of this evidence aligns with the circumstances of Ms. [redacted] version of events of her and Dr. Alshigagi first meeting in February 2019 and subsequently developing a personal and sexual relationship.

568. The Hearing Tribunal overall found Ms. [redacted] to be a credible and believable witness. During her testimony about her sexual relationship with Dr. Alshigagi she presented as calm, honest and forthright. She readily admitted matters that were not favourable to her and conceded when she had been incorrect in her evidence. The Hearing Tribunal found that the inconsistencies in her evidence including the year of her motorcycle accident and year of opening of Dr. Alshigagi's clinic did not impact on her credibility as to the key matters at issue.

569. Ms. [redacted] admitted she had memory issues. The Hearing Tribunal noted her difficulty remembering what years she did her bachelor's degree. She testified that at times she was using drugs her memory was poor. The evidence from her medical chart confirmed she had significant ongoing issues with addictions and mental health at the times of these events. For similar reasons, the Hearing Tribunal did not consider the evidence of a voicemail to Dr. Alshigagi possibly from Ms. [redacted], or Ms. [redacted]'s and Ms. T. [redacted]'s description of Ms. [redacted] appearing "drunk" at clinic closing and as having a significant negative effect on Ms. [redacted] credibility or believability.

570. In contrast, the Hearing Tribunal found many inconsistencies in the evidence provided to support Dr. Alshigagi's version of events, including evidence he gave regarding key points as discussed above. Witness evidence provided relating to circumstances of how and when Dr. Alshigagi and Ms. [redacted] met, the dynamics between Ms. [redacted] and Dr. Alshigagi and details of their clinical visits contained numerous inconsistencies as summarized above in the summary of individual witness testimony and analysis of the allegations. The totality of the noted inconsistencies had a significant negative impact on the

credibility of the witnesses Dr. Alshigagi's counsel called to testify and Dr. Alshigagi's credibility and overall believability.

571. The Hearing Tribunal also accepts that the evidence establishes that Dr. Alshigagi attempted to manipulate or mislead the investigation into the complaint as summarized above. There was evidence from the audit log of Ms. [redacted] EMR of amendments made to the chart regarding chaperone notes while the CPSA investigator was present in another room in the clinic. Dr. Alshigagi had no explanation for how this could have happened other than by an MOA acting on her own accord. There is no readily apparent reason why anyone other than Dr. Alshigagi would have done this or directed this to be done.

572. The recording of the discussion between Dr. Alshigagi and Ms. K. [redacted] and his implausible explanation for it are particularly harmful to Dr. Alshigagi's credibility. The Hearing Tribunal concluded that these were actions reflective of an individual who was not being entirely honest, transparent or forthright with his cooperation with an investigation into a significant complaint made about him to his professional regulator.

573. Dr. Alshigagi testified he had no prior experience with a chaperone undertaking prior to the current complaint, but it was confirmed he had a prior chaperone undertaking with the CPSA to resolve a prior significant complaint where he was alleged to have been involved in sexual impropriety with an allied health professional co-worker.

574. Dr. Alshigagi also testified there are significant differences between acceptable behaviors between the Libyan medical community where he was trained and Alberta and testified that giving patients financial aid was acceptable for a physician in Libya. His counsel referenced his country of medical training as a reason for his substandard medical charting for Ms. [redacted] and later in closing alluded to the CPSA's responsibility in not taking enough action to ensure foreign trained physicians practicing in Alberta are aware of the expected Standards of Practice. Dr. Alshigagi confirmed that he has been a regulated member of the CPSA for over 10 years and that he completed the CPSA training module relating to Bill 21 prior to enactment of this Bill in April 2019. Evidence was also presented that he knew of the significant implications of a finding of guilt relating to Allegations 3 e. to f. in the Notice of Hearing. Ms. [redacted] mentioned to Dr. [redacted] that the physician she had a relationship was worried about "losing his job" if she reported the relationship. Dr. Alshigagi himself said to Ms. K. [redacted] that if she did not say Ms. [redacted] was his girlfriend before she was a patient he was "done".

575. The Hearing Tribunal concludes that Dr. Alshigagi was well aware of the significance of the complaint made against him and potential implications if the allegations relating to a sexual relationship with Ms. [redacted] were found to be proven.

576. The Hearing Tribunal therefore prefers Ms. [redacted] evidence and version of events pertaining to allegations 3 e. and 3 f. and places significant weight on her evidence. The Hearing Tribunal rejects Dr. Alshigagi's version of events relating to these contested allegations.

577. In terms of when the sexual intercourse occurred, Ms. [redacted] testified the first time was a few months after the first clinic visit. Dr. Alshigagi's evidence was that it was a few months after the Starbucks meeting. Both testified that there were sexual encounters for several months after the first time. Despite there being no specific dates from either Dr. Alshigagi or Ms. [redacted] as to when the first act of sexual intercourse took place, the Hearing Tribunal is satisfied that this occurred within a few months of the first clinic visit, in April or May of 2019.

578. The Hearing Tribunal also accepts Ms. [redacted] evidence that Dr. Alshigagi tried on at least one occasion to have sexual intercourse with Ms. [redacted] in the clinic after their sexual relationship began.

579. The Hearing Tribunal concluded from their analysis of the evidence above that on the balance of probabilities the sexual relationship between Dr. Alshigagi and Ms. [redacted] started after she became a patient and continued during the time she saw him as a patient.

580. Like any physician-patient relationship, there was an inherent power imbalance between Dr. Alshigagi and Ms. [redacted]. In this specific instance, the power imbalance was amplified by the fact that Ms. [redacted] was extremely vulnerable. She had several significant health issues including psychiatric illness, polysubstance abuse, ADHD and chronic pain which Dr. Alshigagi managed for her. The analysis of the allegations relating to Dr. Alshigagi's prescribing for Ms. [redacted] is presented above. The CPSA expert confirmed that Dr. Alshigagi's prescribing interfered with efforts made by other physicians to wean Ms. [redacted] off of drugs with abuse potential. Ms. [redacted] testified the most bothersome aspect of all of her dealings with Dr. Alshigagi was she felt his prescribing kept her unwell. The Hearing Tribunal found that the totality of Dr. Alshigagi's prescribing practice for Ms. [redacted] had the net effect of keeping her ill by interrupting her weaning from drugs with abuse potential or rekindling her addictions at times when she had achieved a brief recovery from them. The grim severity of this dynamic was outlined in Ms. [redacted] disclosure to Dr. [redacted] that she realized she needed the Vyvanse she was getting from Dr. Alshigagi as without it she would have to resort to street drugs which would likely lead to her death.

581. The Hearing Tribunal found that Dr. Alshigagi deepened the power imbalance between him and Ms. [redacted] by giving her money. Ms. [redacted] testified when Dr. Alshigagi first gave her money she took this to be an expectation of having a "mutual benefits" arrangement between them with her contribution being sexual intercourse. There is evidence of this understanding from later

text messages between them where Dr. Alshigagi agreed to bring her more money upon a request she made and in reply she asks if he needed sex.

582. The Hearing Tribunal found that Dr. Alshigagi exploited the power imbalance he had over Ms. [redacted] for his own personal gain. Ms. [redacted] testified that she felt he used her as an escape from his life stresses and that she felt from their sexual encounters she was just a body to him. The Hearing Tribunal concludes that the totality of the proven allegations here represents Dr. Alshigagi's catastrophic failure to act as a fiduciary in the best interests of Ms. [redacted] health and well-being as ultimately Dr. Alshigagi exploited the power imbalance he had as Ms. [redacted] physician to commit the most egregious boundary violation a physician can commit.

583. The Hearing Tribunal also finds the proven conduct is "sexual abuse" as defined in section 1(1)(nn.1) of the *HPA*. The relevant portion of that definition is as follows:

> (nn.1) "sexual abuse" means the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:
>
> (i) sexual intercourse between a regulated member and a patient of that regulated member;
> (ii) genital to genital, genital to anal, oral to genital, or oral to anal contact between a regulated member and a patient of that regulated member;
> (vi) touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by a regulated member.

584. The Hearing Tribunal has accepted the evidence of Ms. [redacted] and Dr. Alshigagi that there was a relationship of a sexual nature between them that involved sexual intercourse. The proven conduct is sexual abuse.

585. The Hearing Tribunal has also accepted the evidence of Ms. [redacted] regarding attempted sexual intercourse in the clinic and the details of that encounter. The proven conduct is sexual abuse.

586. The Hearing Tribunal finds that the proven allegations 3 e. and 3 f. in the Notice of Hearing constitute unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA. The conduct is a significant breach of the CPSA Standard of Practice Boundary Violations: Sexual. Additionally, this conduct amounts to unprofessional conduct pursuant to section 1(1)(pp)(xii) of the HPA as it is conduct that harms the integrity of the medical profession.

ORDERS

587. Given the Hearing Tribunal's findings with respect to allegations 3 e. and 3. f. in the Notice of Hearing, and in accordance with section 81.1(1) of the HPA,

Dr. Alshigagi's practice permit is immediately suspended until an order under section 82 is made.

588. The Hearing Tribunal will receive submissions from the parties on the appropriate orders to be imposed on Dr. Alshigagi pursuant to section 82. The Complaints Director and Dr. Alshigagi may make submissions in writing, or the Hearing Tribunal will consider requests from either party for a further oral hearing to determine orders. The complainant must be offered the opportunity to present any written or oral statement describing the impact that Dr. Alshigagi's sexual abuse has had on her before an order under section 82 is made.

Signed on behalf of the Hearing Tribunal by the Chair:

Dr. Don Yee

Dated this 25th day of May, 2026.