

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. JAMES WATT

**DECISION OF THE HEARING TRIBUNAL OF  
THE COLLEGE OF PHYSICIANS  
& SURGEONS OF ALBERTA  
December 2, 2024**

## I. INTRODUCTION

[1] The Hearing Tribunal held a hearing into the conduct of Dr. James Watt on October 8, 2024. The members of the Hearing Tribunal were:

Mr. Terry Engen, Public Member, Chair;  
Dr. Pooja Das Kumar;  
Dr. Goldees Liaghati-Nasseri;  
Mr. Glen Buick, Public Member.

[2] Appearances:

Mr. Craig Boyer, legal counsel for the Complaints Director;  
Dr. Neelam Mahil, observing on behalf of the Complaints Director;  
Dr. James Watt ("**Dr. Watt**" or the "**Investigated Person**");  
Mr. Philip Nykyforuk and Ms. Annika Winn, legal counsel for Dr. Watt;  
Mr. Fred Kozak KC, independent legal counsel for the Hearing Tribunal;  
Ms. Jennifer White, Hearing Facilitator.

## II. PRELIMINARY MATTERS

[3] Neither party objected to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing.

[4] The Chair confirmed that the hearing was open to the public under section 78 of the *Health Professions Act*, RSA 2000, c. H-7 ("**HPA**"). No application was made to hold the hearing or a part of the hearing in private.

[5] There were no preliminary objections or other issues to be addressed.

## III. CHARGE

[6] The Notice of Hearing listed the following allegations (the "**Allegations**"):

1. During the period of January to April 2021, you did provide remotely supervised ultrasound imaging to patients seen at the [REDACTED] diagnostic imaging facility [REDACTED] [REDACTED] contrary to sections 8.1(1) and 8.6 of Schedule 21 of the Health Professions Act;
2. During the period of January to April 2021, as the medical director of the [REDACTED] diagnostic imaging facility [REDACTED] [REDACTED] you did permit or fail to prevent Dr. [REDACTED] a radiologist, to provide remotely supervised ultrasound imaging to patients seen at the facility, contrary to section 8.3(4) of Schedule 21 of the Health Professions Act.

- [7] Dr. Watt admitted the Allegations and also admitted that his conduct constituted unprofessional conduct.

#### **IV. EVIDENCE**

- [8] The following Exhibits were entered into evidence during the hearing:

**Exhibit 1** – Agreed Exhibit Book consisting of Tabs 1 – 7:

- Tab 1: Notice of Hearing dated August 26, 2024, page 1
- Tab 2: Memorandum from Dr. G [REDACTED] to Dr. H [REDACTED] dated May 20, 2021, page 4
- Tab 3: Letter of Response from Dr. Watt dated September 29, 2021, page 6
- Tab 4: Excerpts from Transcript of Interview of Dr. [REDACTED] conducted on February 22, 2023, page 8
- Tab 5: Alberta Health Billing Information for Dr. Watt for Imaging at the [REDACTED] Facility for the period of January to April 2021, page 16
- Tab 6: Alberta Health Billing Information for Dr. [REDACTED] for imaging at the [REDACTED] Facility for the period of January to April 2021, page 33
- Tab 7: CPSA Diagnostic Imaging Accreditation Standards, page 75

**Exhibit 2** – Admission and Joint Submission Agreement

- [9] The parties provided an Agreed Statement of Facts which set out the facts and admissions below.
1. Dr. Watt had been the medical director of [REDACTED] facility from the fall of 2019 until June 2022 when the facility closed.
  2. Dr. Watt has been the medical director for other diagnostic imaging facilities before, during and since the time he was medical director of the [REDACTED] facility.
  3. Dr. Watt confirmed that neither he nor Dr. [REDACTED] were ever present at the [REDACTED] facility during the period of January to April 2021 when patients were being imaged by sonographers at that facility.

#### **V. SUBMISSIONS ON THE ALLEGATIONS**

Submissions on behalf of the Complaints Director

- [10] Mr. Boyer reviewed the documents in the Agreed Exhibit Book and noted the admissions by Dr. Watt, as permitted under section 70 of the HPA. The

Hearing Tribunal must determine pursuant to section 70(2) of the HPA if the admission is accepted in whole or in part.

- [11] Mr. Boyer submitted that the evidence clearly supported the admissions by Dr. Watt, and also supported the conclusion that the conduct was unprofessional. The complaint arose out of an unannounced inspection of the ██████████ facility on April 29, 2021. The Accreditation Standards for diagnostic imaging facilities specify that a medical director is responsible for the overall operation and administration of the facility and is also responsible for ensuring the presence of on-site supervision by a radiological or imaging specialists at the facility. The Standards defined "supervision" to be physically on-site. The facility did not have remote interpretation accreditation. Pursuant to Schedule 21 of the HPA the medical director has to be a regulated member of the CPSA. Dr. Watt was filling the role of medical director for this ██████████ facility at the material time, and therefore was the one accountable to the CPSA for ensuring that the Accreditation Standards were followed and that only imaging and other services that were allowed by the facility accreditation were provided to the public.
- [12] Mr. Boyer submitted that the admitted breach of the Accreditation Standards constituted unprofessional conduct under the HPA.

#### Submissions on behalf of the Investigated Person

- [13] Mr. Nykyforuk confirmed that Dr. Watt admitted the Allegations in the Notice of Hearing.

### **VI. FINDINGS ON THE ALLEGATIONS**

- [14] The Hearing Tribunal considered the submissions of the parties and the exhibits. The Hearing Tribunal agreed that there was sufficient evidence to establish that the Allegations had been proven and that the proven conduct constituted unprofessional conduct pursuant to section 1(1)(pp) of the HPA, including a breach of sections 8.1(1), 8.3(4), and 8.6 of Schedule 21 of the HPA.

### **VII. SUBMISSIONS ON SANCTION**

#### Submissions on behalf of the Complaints Director

- [15] Mr. Boyer reviewed the Joint Submission Agreement and the proposed sanction. He referenced the deference owed to a joint submission on sanction as set out in *R v Anthony-Cook*, 2016 SCC 43. A tribunal should not depart from a joint submission on sanction unless the proposed sanction would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. His written brief noted that in *Bradley v Ontario College of Teachers*, 2021 ONSC 2303 this approach had also been applied in professional disciplinary matters.

- [16] Mr. Boyer submitted that the agreed joint sanction proposal was intended to achieve a combination of both punishment and remediation, having regard to the *Jaswal* factors (including the age and experience of the physician), and the need to enforce Accreditation Standards for diagnostic imaging facilities that Council had put in place to protect the public. He noted the fundamental purpose of a sanction in the professional regulatory context is to ensure that the public is protected. The Hearing Tribunal is also tasked with ensuring that the public has confidence in the profession while sending a message to other members of the profession through sanctions, demonstrating that the conduct was unacceptable. The sanction should also serve to rehabilitate the member.
- [17] Mr. Boyer noted that there were some mitigating factors. There were no prior discipline findings against Dr. Watt. It was clear that he relied upon management of the diagnostic facility to ensure that the requirements such as on-site radiologists were, in fact, being honoured. There was no suggestion that any patient had been harmed.
- [18] Mr. Boyer reviewed other cases that he submitted were similar but not identical, including *Barr, Mones, Wardell and Adebayo*, and noted that the sanctions proposed in this case was within the range of those cases. The joint submission on sanction was intended to take a balanced approach to satisfy the need for deterrence by clearly indicating that the conduct was not acceptable, while putting in place conditions to assist Dr. Watt in improving his practices through the PBI course on Risk Management Essentials.

#### Submissions on behalf of Dr. Watt

- [19] In addition to the mitigating factors acknowledged by the Complaints Director, Mr. Nykyforuk submitted that Dr. Watt had been candid and fully cooperative with the College at all times during the investigation process, noting that in Dr. Watt's initial response letter to the complaint, Dr. Watt acknowledged his mistake and apologized. Mr. Nykyforuk submitted that Dr. Watt's role in acknowledging what had occurred is a specific mitigating *Jaswal* factor to be considered by the Hearing Tribunal.
- [20] Finally, Mr. Nykyforuk submitted that the three proposed sanction components - the reprimand, the PBI Risk Management Course, and the costs payment - imposed meaningful consequences upon Dr. Watt, satisfying the goals of promoting both specific and general deterrence and protecting the public, while serving to maintain the public's confidence in the integrity of the medical profession.

### **VIII. DECISION ON SANCTION WITH REASONS**

- [21] The Hearing Tribunal considered the exhibits and submissions of the parties.

- [22] The Hearing Tribunal noted that pursuant to Schedule 21 of the HPA, the Medical Director had the responsibility of ensuring that only accredited services are provided. The Medical Director was required to be a regulated member of the College. In this case, Dr. Watt was responsible for the overall operation and administration of the facility, and for ensuring on-site supervision of radiological imaging by specialists there.
- [23] The Hearing Tribunal considered the *Jaswal* factors as set out by Mr. Boyer and Mr. Nykyforuk, including the aggravating and mitigating factors in this case. The proposed sanction is fair and appropriate. It denounces the conduct but also has a significant rehabilitative component.
- [24] In the circumstances of the case, and given the agreement of the parties, the Hearing Tribunal also considered that the payment of costs of the investigation and hearing in the amount of \$20,000 as appropriate.
- [25] The Hearing Tribunal finds that the sanction is reasonable. It achieves the goals of specific and general deterrence and protects the public. The Hearing Tribunal is also cognizant of the high level of deference that is owed to a joint submission on sanction. The Hearing Tribunal finds no reason to deviate from or intervene with the proposed joint submission on sanction.

## **IX. ORDERS**

- [26] For the reasons set out above, the Hearing Tribunal orders the following in accordance with section 82 of the HPA:
1. Dr. Watt shall receive a reprimand. This written decision will serve as that reprimand.
  2. Dr. Watt shall, at his own cost, complete and pass the PBI Risk Management Essentials – Extended Edition course, as described in Schedule "B" to this Agreement, by no later than September 30, 2025 unless the Complaints Director agrees in writing to an extension of that deadline.
  3. The Hearing Tribunal shall retain jurisdiction to determine any issues arising from the performance of the terms of this Order.
  4. Dr. Watt shall be responsible for a portion of the costs of the investigation and hearing, being the sum of \$20,000.00, which shall be paid in twelve equal monthly installments commencing one month from the date of the decision issued by the Hearing Tribunal, or on terms acceptable to the Complaints Director.

Signed on behalf of the Hearing Tribunal by the Chair:



Terry Engen