

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. ASHIM VERMA

**DECISION OF THE HEARING TRIBUNAL OF  
THE COLLEGE OF PHYSICIANS  
& SURGEONS OF ALBERTA  
June 16, 2022**

## **I. INTRODUCTION**

1. The Hearing Tribunal held a hearing into the conduct of Dr. Ashim Verma on May 10, 2022. The hearing was conducted virtually via Zoom.
2. The members of the Hearing Tribunal were:  
  
Dr. Don Yee of Edmonton as Chair;  
Dr. Vonda Bobart of St. Albert;  
Ms. Patricia Matusko of Beaumont (public member);  
Mr. James Lees of Edmonton (public member).
3. Ms. Ayla Akgungor acted as independent legal counsel for the Hearing Tribunal.
4. Also in attendance at the hearing were:  
  
Mr. Craig Boyer, legal counsel for the Complaints Director;  
Dr. Ashim Verma;  
Mr. Dan Morrow, legal counsel for Dr. Verma.

## **II. PRELIMINARY MATTERS**

5. Neither party objected to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing. There were no matters of a preliminary nature.
6. The hearing was open to the public pursuant to section 78 of the *Health Professions Act* ("HPA"). There was no application to close the hearing.

## **III. CHARGES**

7. The Notice of Hearing listed the following allegations:
  1. On October 9, 2019, you were found guilty of one count of being in possession of child pornography contrary to Section 163.1(4) of the *Criminal Code of Canada*.

## **IV. EVIDENCE**

8. By agreement, the following Exhibits were entered into evidence during the hearing:

**Exhibit 1:** Agreed Exhibit Book containing Tabs 1 to 6

**Tab 1:** Notice of Hearing dated September 13, 2021

**Tab 2:** Section 56 Intake memo from Dr. John Ritchie, dated August 21, 2018

**Tab 3:** Undertaking of Dr. Verma, signed September 11, 2018

**Tab 4:** Letter of response from Dr. Verma dated March 1, 2021

**Tab 5:** Proceedings Transcript from R. v. Ashim Verma on October 9, 2019

**Tab 6:** Reasons for Sentence Transcript from R. v. Ashim Verma on January 23, 2020

**Exhibit 2:** Signed Admission and Joint Submission Agreement

## **V. SUBMISSIONS REGARDING ALLEGATION**

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

9. Mr. Boyer summarized the contents of Exhibit 1. He stated the allegation in the notice of hearing is that Dr. Verma had been charged and convicted of an offence under Section 163.1 of the *Criminal Code* which relates to child pornography.
10. Mr. Boyer pointed out Dr. Verma had been charged and convicted of a *Criminal Code* offence involving possession of child pornography. Mr. Boyer summarized that in 2018 the College received information from the College of Physicians and Surgeons of Ontario ("CPSO") that Dr. Verma had been criminally charged in Ontario with two counts of possession of child pornography and one count of making child pornography available. The College initiated a complaint regarding Dr. Verma in August 2018 under Section 56 of the HPA.
11. Subsequently, in September 2018, Dr. Verma signed an undertaking with the College where he voluntarily withdrew from practicing medicine in Alberta (p. 8, exhibit 1). In his reply to the College complaint, Dr. Verma confirmed that he pleaded guilty to the criminal charges in Ontario, was sentenced on January 23, 2020, served 8 months of a 30-month prison term, was granted day parole on September 14, 2020 and later full parole.
12. In his reply to the College complaint, Dr. Verma admitted that he contravened the Criminal Code as outlined in the College Complaint and confirmed the accuracy of the information provided to the College by the CPSO regarding his criminal conviction (p. 9, exhibit 1).
13. Mr. Boyer summarized the Ontario Court proceedings transcripts where Dr. Verma admitted to the charges in October 2019 (p.13, exhibit 1) and was subsequently sentenced in January 2020 (p. 21, exhibit 1).

14. Mr. Boyer indicated that under the HPA, a violation of a statute that is applicable to the profession which would include the *Criminal Code*, is grounds for unprofessional conduct. He stated that there is sufficient evidence to prove the Allegation in the Notice of Hearing and that the conduct amounts to unprofessional conduct.
15. Mr. Boyer indicated that section 70 of the HPA indicates that even with an admission, the Tribunal needs to be satisfied that the evidence before it supports the admission. He submitted that the evidence does support Dr. Verma's admission and that the Tribunal should find that the admitted conduct does amount to unprofessional conduct.

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

16. Mr. Morrow acknowledged Mr. Boyer's submissions and confirmed that Dr. Verma's admitted conduct does amount to unprofessional conduct. He indicated the admission agreement speaks to the admission and that this conduct does amount to unprofessional conduct.

### **VI. DECISION OF THE HEARING TRIBUNAL**

17. The Hearing Tribunal carefully reviewed and considered the evidence in the Exhibits and submissions of the parties. The Hearing Tribunal finds that the Allegation in the Notice of Hearing is factually proven and finds that the conduct constitutes unprofessional conduct.

### **VII. FINDINGS AND REASONS**

18. The Hearing Tribunal heard verification from Mr. Morrow that Dr. Verma does admit to the Allegation in the Notice of Hearing. While a regulated member of the College, Dr. Verma admitted to criminal charges of possessing child pornography.
19. The Hearing Tribunal found there was sufficient evidence to support Dr. Verma's admission and that the admitted conduct does constitute unprofessional conduct. The Allegation in the Notice of Hearing alleges that on October 9, 2019, Dr. Verma was found guilty of one count of being in possession of child pornography contrary to Section 163.1(4) of the Criminal Code of Canada. Dr. Verma admitted to the same conduct when facing Criminal Code charges in an Ontario Court of Justice (p.10, exhibit 1). The Hearing Tribunal found no reason not to accept Dr. Verma's admission.
20. Evidence in Exhibit 1 confirms Dr. Verma was arrested and charged with possession of child pornography on August 2, 2018. An OPP investigation was initiated after an online chatroom reported an upload of a child pornography video. The OPP investigation traced the origin of the upload to Dr. Verma's residence in Lasalle. A search was executed on Dr. Verma's

residence and multiple child pornography files were found on his personal iPhone. 2,034 child pornography images and 157 child pornography videos were ultimately found on his electronic devices. Dr. Verma plead guilty to the charge in an Ontario Court of Justice on October 9, 2019. The transcript of Dr. Verma's admission in an Ontario Court of Justice was supplied to the Tribunal (p.10, exhibit 1). He was sentenced in January 2020 to a 30-month prison term. The transcript of Dr. Verma's sentencing was provided to the Tribunal (p. 19, exh 1). He served 8 months and was granted day parole September 14, 2020 and later full parole.

21. The College received notification from the CPSO of Dr. Verma's criminal charges in August 2018 and subsequently opened a complaint file into the matter. Dr. Verma signed an undertaking with the College on September 9, 2018 where he agreed to withdraw from practicing medicine in Alberta until the matter is investigated and fully adjudicated. In his reply to the College regarding the complaint Dr. Verma confirmed the accuracy of the information provided by the CPSO as set out in the complaint memo and admitted to contravening the *Criminal Code*.
22. The Hearing Tribunal finds that the evidence in Exhibit 1 does factually prove the Allegation to be true. Additionally, the Tribunal finds that Dr. Verma's admitted conduct does constitute unprofessional conduct. The HPA defines unprofessional conduct to include contravention of another enactment that applies to the profession and in this case Dr. Verma breached the *Criminal Code of Canada*. The Tribunal also considered the College's Standards of Practice and found that Dr. Verma in addition breached the CMA Code of Ethics and Professionalism. Specifically, this Code of Ethics states a physician must commit to respect for persons including never participating in or supporting practices that violate basic human rights.
23. In this case, the Tribunal found that Dr. Verma's admitted criminal offences are amongst the most repugnant a physician can engage in. Dr. Verma demonstrated a complete lack of judgement in his behavior, and his amassment of a large cache of child pornography files reflects egregious and vile conduct. The sexual exploitation of innocent children goes against everything that would be expected from an ethical physician who respects basic human rights for all and supports a just society.
24. For these reasons, Dr. Verma's conduct also causes extreme harm to the integrity of the medical profession and plainly constitutes unprofessional conduct.

## VIII. SUBMISSIONS ON SANCTION

### Submissions on Behalf of the Complaints Director

25. Mr. Boyer advised that the parties were proceeding by way of a sanction agreement. The Joint Submission Agreement outlined the sanction jointly proposed by the parties, which requested that Dr. Verma's practice permit and registration be cancelled effective immediately and that Dr. Verma be responsible for the costs of the investigation and hearing.
26. Mr. Boyer presented a Brief of Law on Joint Submissions which focused on the Supreme Court of Canada case of *Anthony-Cook*. He stated, as outlined in *Anthony-Cook*, that a decision maker such as the Tribunal should take the joint submission with considerable gravity and only reject it if it is manifestly unjust.
27. In terms of the *Jaswal* factors, the significant factors applying to this case include the impact of the Dr. Verma's actions on the victims, the gravity of his conduct and the number of times his conduct occurred.
28. Mr. Boyer summarized several prior cases that demonstrate the sanction of cancellation of Dr. Verma's practice permit and registration to be appropriate. These include the CPSA cases of Drs. Levin and Nqumayo. Both of these cases involved physicians convicted of sexual assault in the criminal court, and ultimately resulted in cancellation of their registration. He also highlighted the CPSO case of Dr. Johnston involving child pornography which resulted in revocation.
29. Mr. Boyer summarized three criminal cases from the Alberta Court of Appeal. These cases are the ultimate authority under the HPA, being the body of appeal under Section 90. He stated the comments of the Court of Appeal in these three cases give an understanding of how the courts view the gravity and how the conduct related to possessing child pornography does impact the ultimate victims who are the children.
30. The paragraphs from three cases include paragraph 27 from the *T.L.B.* case, paragraph 11 from the *Hammond* case, and paragraphs 29 and 30 from the *Andrukonis* case. Mr. Boyer stated all three cases demonstrate how the gravity of the conduct does require a very significant sanction, both for deterrence to the member under investigation and also to the profession at large and to demonstrate to the public that it can have confidence in the College to properly manage and regulate members of the profession.
31. Mr. Boyer submitted that the case law presented demonstrates the proposed sanction of cancellation of a practice permit and registration is appropriate and consistent with the existing case law.

32. Mr. Boyer stated that Dr. Verma should be responsible for the costs of the investigation and hearing and that the Hearing Tribunal retains jurisdiction over the final determination of costs in case of a disagreement between the Complaints Director and the member. This one proviso was added at the request of Mr. Morrow and Mr. Boyer had no objection to it.

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

33. Mr. Morrow had no further submissions and accepted Mr. Boyer's position and submissions. He agreed with the Joint Sanction agreement and stated cancellation of the permit and registration is an appropriate sanction.

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

34. The Hearing Tribunal asked the parties to clarify whether Dr. Verma would be eligible to apply for reinstatement of his practice permit and registration at some later point.
35. Mr. Boyer confirmed that the possibility of Dr. Verma applying for reinstatement was discussed amongst the parties. He referenced Section 45(3) of the HPA and stated this was one of the changes made to the legislation in April 2019. Section 45(3) provides that if a regulated member has their registration and practice permit cancelled as a result of certain conduct (which includes the conduct engaged in by Dr. Verma), the member may not apply for the practice permit to be reissued or the registration to be reinstated.
36. Mr. Morrow pointed out that page 2 of the Admission Agreement states that section 45(3) of the HPA may affect any future application to the CPSA for reinstatement. He reviewed the wording of this section of the admission agreement which states "Whereas Dr. Verma acknowledges that with his admission of the charge in the Notice of Hearing and the joint submission on sanction to be cancellation of his practice permit and registration, that section 45(3) of the HPA may affect any future application to the CPSA for reinstatement".
37. The reason the wording reflects that section 45(3) "may" affect any future application for reinstatement is that section 45(3) post-dates Dr. Verma's conduct underlying the charge. This then engages a complex legal question of whether section 45(3) would apply to Dr. Verma retroactively. However, this question would only be engaged if Dr. Verma were to seek reinstatement.
38. Mr. Morrow stated that in this forum, the jurisdiction of the panel is limited to Section 82 of the HPA which permits the panel to cancel the registration as it sees fit and that whether or not section 45(3) applies is beyond the scope of the matter before the Hearing Tribunal.

39. Mr. Boyer stated that if a period of time passes and Dr. Verma does eventually apply for reinstatement with the College, a determination would be needed upon his reapplication. The question would arise as to whether or not Section 45(3) creates a barrier to an application for reinstatement because the conduct which gave rise to the conviction occurred before April 1, 2019. He stated that this is beyond what the Hearing Tribunal is empowered to deal with under Section 82 of the HPA.

## **IX. DECISION**

40. After adjourning to consider the submissions from the parties, the Hearing Tribunal determined that the proposed sanction order was appropriate taking into account the relevant factors in *Jaswal v Newfoundland Medical Board*, (1996), 42 Admin L.R.(2d)233. The Hearing Tribunal was also mindful that significant deference should be given to Joint Submissions.
41. The Hearing Tribunal accepted the Joint Submission agreement as appropriate and was satisfied that the proposed sanctions are in proportion to Dr. Verma's admitted conduct and do serve as an appropriate deterrent to the profession at large and protect the public interest. The Hearing Tribunal did not find the agreed sanctions to be contrary to the public interest and did not find that the proposed sanctions would bring the administration of justice into disrepute.
42. The Tribunal was mindful of the deference that a decision maker should give to a joint submission on sanction and found that the proposed revocation and payment of investigation and hearing fees were in range of the prior relevant case law.
43. The Tribunal took into consideration the case law cited to justify the agreed sanction of cancellation of practice permit and registration. Dr. Levin was found guilty in Alberta Courts in 2013 of sexually assaulting three of his patients. His appeals of the conviction to the Alberta Court of Appeal and Supreme Court of Canada were unsuccessful. A CPSA Hearing Tribunal subsequently found him guilty of unprofessional conduct in April 2015 and part of his sanction included cancellation of his CPSA practice permit and registration.
44. Dr. Nqumayo was found guilty in criminal court of sexually assaulting four patients. His appeals to the Alberta Court of Appeal and Supreme Court of Canada were unsuccessful. The College subsequently took disciplinary action against Dr. Nqumayo which included cancellation of membership.
45. Dr. Johnston was an Ontario family physician who pleaded no contest to charges of accessing, purchasing and having in his possession child pornography and voyeurism. His conduct was found to represent unprofessional conduct by a Discipline Committee of the CPSO in 2016. Part



of his sanction included immediate revocation of his certificate of registration with the CPSO.

46. The Tribunal also reviewed and considered the highlighted paragraphs from the three Alberta Court of Appeal cases for their commentary on the impact of child pornography (*T.L.B., Hammond and Andrukonis*). From these highlighted comments, the Tribunal understood and accepted the courts' view of child pornography as an ever-present threat to the well-being and lives of children on a global scale given the ease of online electronic distribution. The Tribunal accepted the courts' view that child pornography represents a form of sexual exploitation and abuse that harms and ruins children and that a person who consumes child pornography is willingly participating in the sexual exploitation and sexual abuse of innocent children.
47. The Tribunal found that Dr. Verma's admitted conduct to be amongst the most repugnant and egregious a physician can take. While there was no evidence that Dr. Verma's conduct involved patients, he willingly participated in and supported the sexual exploitation and abuse of innocent children. His conduct was intentional and not a one-time event as he had accumulated a large cache of child pornography videos and images on his personal electronic devices. His repeated actions were criminal in nature, resulted in a prison sentence and are nowhere remotely close to the conduct and behavior expected of an ethical, just and professional physician. Therefore, the Hearing Tribunal agrees that the most significant sanction from the College is warranted.
48. While the Tribunal notes Dr. Verma's admission to his conduct helped to avoid a lengthy hearing, his reprehensible conduct contributes to the extreme harm brought to the child victims involved in making and distributing child pornography. His conduct also brings significant harm to the integrity and reputation of the medical profession. The Tribunal agreed that the proposed sanction for Dr. Verma is appropriate and consistent with sanctions ordered in previous similar cases outlined above.
49. The Tribunal is also mindful of the duty the College has to protect the public and ensure the public's trust in the ability of the profession to self-regulate and provide appropriate direction to its members and from that perspective is also in agreement with the Joint Sanction agreement.

## **X. ORDERS**

50. Accordingly, the Hearing Tribunal accepts the Joint Submission Agreement and makes the following orders:

- a.** Dr. Verma's practice permit and registration shall be cancelled effective immediately.
- b.** Dr. Verma shall be responsible for the full costs of the investigation and hearing.

Signed on behalf of the Hearing Tribunal by the Chair:



Dr. Don Yee

Dated this 16<sup>th</sup> day of June, 2022.