



# Finding of ACMDTT Member #10461



**IN THE MATTER OF A HEARING into the conduct of [REDACTED]**  
**pursuant to the *Health Professions Act*, R.S.A. 2000, c. H-7**  
**(the “HPA”)**

**DECISION OF THE HEARING TRIBUNAL**

A hearing of the Hearing Tribunal was held on July 14, 2017 at the offices of the Alberta College of Medical Diagnostic & Therapeutic Technologists (the “College” or the “ACMDTT”) at Suite #800, 4445 Calgary Trail, Edmonton, Alberta.

Present were:

Marlene Chambers, MRT (R), panel chair and regulated member  
Phyllis Banister, MRT (NM), panel member and regulated member  
James Lees, public member

Blair Maxston, independent legal counsel for the Hearing Tribunal

Karen Stone, Complaints Director  
Katrina Haymond Legal Counsel for the Complaints Director

[REDACTED] MRT(R), investigated member or the “Member”

**I. Preliminary Issues**

[1] Mr. [REDACTED] confirmed at the hearing that he understood his right to obtain legal counsel. He confirmed at the hearing that he was waiving this right. Mr. [REDACTED] confirmed that he had received the Notice of Hearing and raised no issues regarding the notice.

[2] There were no objections to the jurisdiction of the Hearing Tribunal.

**II. Allegations**

[3] The Allegations in the Notice of Hearing (Exhibit 1) are:

1. You failed and/or refused to comply in a timely manner with the requirements of the ACMDTT Continuing Competence Program for the period from September 1, 2015 to August 31, 2016.

2. On or about November 30, 2016, you declared, as part of your practice permit renewal application, that you had fully complied with the requirements of the ACMDTT Continuing Competence Program for the period from September 1, 2015 to August 31, 2016, when, in fact, you had not fully complied with the requirements of the ACMDTT Continuing Competence Program for the period from September 1, 2015 to August 31, 2016 as of November 30, 2016

3. You failed and/or refused, to meaningfully comply and/or cooperate with requests of the Complaints Director, in a timely manner or at all, made on or about April 21, 2017 and again on or about May 16, 2017, as part of an investigation into this matter, to provide information with respect to your non-compliance with the ACMDTT Continuing Competence Program and/ or your non-cooperation with the requests of the Complaints Director.

**Exhibits**

[4] The following were entered as Exhibits at the hearing with the consent of both parties:

1. Notice of Hearing dated June 8 and 15, 2017;

2. Binder containing:

Tab 1 Newsletters excerpts and E-blast dated from September 2014 to March 2017;

Tab 2 E-mail consent provided by [REDACTED].

Tab 3 ACMDTT Facebook and twitter posts – November 27, 2015 and August 31, 2016;

Tab 4 E-mail from Dacia Richmond dated March 13, 2017 re: Audit of online usage of My CCP Platform – potential issue with your non-compliance;

Tab 5 Continuing Competence Declaration by [REDACTED];

Tab 6 ACMDTT User Login Report for [REDACTED] from My CCP Analytics for 2015/2016 cycle;

Tab 7 E-mail from Dacia Richmond dated March 29, 2017 re: ACMDTT Non-Compliance – Not Resolved;

Tab 8 E-mail from Dacia to [REDACTED] dated April 18 2017;

Tab 9 E-mail from Dacia Richmond dated April 1, 2017 re: ACMDTT CCP – Not complete as of today;

Tab 10 ACMDTT members referred to Complaints Director by Director of Education.

3. “Knowledge acquisition necessitating College Action” document.

4. Affidavit of Karen Stone sworn on the 10<sup>th</sup> day of July 2017:

Tab A ACMDTT members referred to Complaints Director by Director of Education;

Tab B Registered letter sent to Mr. [REDACTED] dated April 21, 2017, wrong address;

- Tab C E-mail from Mr. [REDACTED] to Adrienne Hislop April 26, 2017- confirmation of mailing address;
- Tab D Registered letter sent to Mr. [REDACTED] dated April 26, 2017;
- Tab E Email from Adrienne Hislop to Mr. [REDACTED] Re confirmation of mailing address and informing Mr. [REDACTED] a registered letter was sent. Second e-mail sent May 10, 2017;
- Tab F Tracking number from Canada Post and delivery progress;
- Tab G Register mail sent May 16, 2017;
- Tag H E-mail from Karen Stone to Mr. [REDACTED] May 24, 2017. E-mail from Mr. [REDACTED] to Karen Stone May 25, 2017;
- Tab I Registered mail RE: Discipline Hearing notification June 8, 2017;
- Tab J Statutory Declaration of serving the Notice of Hearing to Mr. [REDACTED];
- Tab K E-mail from Ayla Akgungor to [REDACTED] (CC to Karen Stone) June 13, 2017. ACMDTT Hearing waiving 30-day notice;
- Tab L Discipline Hearing notice delivered by Process Server June 15, 2017;
- Tab M Statutory Declaration of delivery of Hearing Notice June 15, 2017;

5. ACMDTT Penalty recommendations.

### **III. Evidence**

[5] The following individual was called as a witness by the Complaints Director:

Dacia Richmond

[6] Mr. [REDACTED] gave evidence on his own behalf. Mr. [REDACTED] did not call any other witnesses.

#### **Evidence from Dacia Richmond**

[7] Ms. Richmond is the Director of Education for the ACMDTT which includes the duties of, but not limited to administering the Continuing Competency Program (CCP), assisting with accreditation process, fielding practice questions from members, functioning in a member services role, assisting branches with meetings and communicating to members, serving on the Awards Committee.

[8] Ms. Richmond stated that compliance in the CCP is mandatory, and it is her role to communicate requirements to members and field any questions from members or the public.

[9] Ms. Richmond went on to explain that the CCP consists of three areas: Self-Assessment, Learning Plan and Reflection.

[10] Ms. Richmond testified that in 2014 the CCP Committee (the "Committee") voted to institute minor changes to the program thus making it more applicable to all regulated members. These changes would be effective March 1, 2015 and would affect three areas:

1. The Self-Assessment which was initially based on educational competencies for each discipline. This meant that if you were registered in two different disciplines then you were required to complete a self-assessment for each registered discipline. The Committee recognized that this was an unnecessary duplication. Also, the Committee concluded that when technologists graduate their focus changes as do their competencies. Therefore the CCP Committee moved to a Self-Assessment based on the Standards of Practice. This meant that all registered members regardless of their registered discipline(s) completed the same Self-Assessment form, making the process more streamlined across all disciplines.

2. A reflection section was added giving regulated members more opportunity to re-evaluate the learning objectives completed during the year.

3. The CCP would now be managed through a mandatory online platform called My CCP.

[11] Ms. Richmond testified that the CCP program requires each regulated member to identify a minimum of two learning objectives, one of which must be met by a learning activity. The regulated member must enter each learning activity, and provide reflection on how that learning activity met the objective originally identified.

[12] Ms. Richmond testified that each regulated member must complete a minimum of 24 hours in an annual cycle from September 1 to August 31 of the given year. These dates are off set from the registration dates to allow declaration of CCP compliance at the time of registration.

[13] Monitoring of the CCP happens two ways:

1. Random Audit which is completed in the fall of each year;

2. Data Entry Analytics – the ACMDTT does not have access (without regulated member permission) to the detailed entries by regulated members but it does have the ability to review the analytics for each regulated member. This allows the ACMDTT to review login, logout dates and times as well as if any data had been entered in each of three areas: Self-Assessment, Learning Plan, and Learning Activities.

[14] Participation in the CCP became mandatory in 2009.

[15] Ms. Richmond confirmed that the Newsletters excerpts and e-blast in Tab 1 were mostly authored by her and that they were sent via email to each regulated member to the email address the regulated members are required to supply to the College. She also confirmed that she received no bounce back or failure to deliver emails for these mail outs.

[16] Social media posts to Facebook and Twitter were also made by Ms. Richmond (Tab 3), and she confirmed there is no way to determine who viewed these posts.

[17] An email was sent by Ms. Richmond (Tab 4) to 997 regulated members, which constituted approximately 44% of the College's 2323 regulated members who were non-compliant on My CCP as of March 13, 2017. She confirmed that Mr. [REDACTED] did not respond to this email or ask any questions regarding the new My CCP platform.

[18] Ms. Richmond confirmed that the "1" found on the last page of submission in Tab 5 under Competence Declaration column for the second from last row verified that Mr. [REDACTED] declared compliance with the CCP.

[19] As of March 27, 2017, approximately 50% of the 997 non-compliant regulated members remediated their compliance. A second email dated March 29, 2017 was sent to the remaining non-compliant regulated members (Tab 7).

[20] The email of April 18, 2017 was follow-up to a phone call received from Mr. [REDACTED]. Ms. Richmond gave Mr. [REDACTED] instructions about how to retroactively enter information. Analytics subsequently showed that Mr. [REDACTED] logged on but no data was entered.

[21] Ms. Richmond sent a reminder email Dated April 1, 2017 (Tab 9) to the remaining non-compliant regulated members. In this e-mail, she did not restate the deadline extension to April 5, 2017 that was granted in the March 29<sup>th</sup> email.

[22] After the April 5, 2017 deadline passed, 50 regulated members were still non-compliant or not completely remediated. Of those, 8 had not accessed My CCP at all, 30 completely remediated after the deadline of April 5, 2017 and 10 were in partial compliance.

[23] Ms. Richmond then sent a list in table format (Tab 10) to the Complaints Director listing the 8 regulated members who had made no attempt to access My CCP.

[24] As of the date of this hearing Mr. [REDACTED] had completed his remediation for the 2015/2016 year.

[25] On Cross Examination Ms. Richmond reconfirmed that the ACMDTT made multiple attempts to communicate the changes in CCP and to address any questions regarding the My CCP platform.

[26] Ms. Richmond testified that the Newsletters were a source of information on the changes made to the CCP and although they are not mandatory to read, the regulated member has a responsibility to be aware of their requirements for registration and the newsletter is a source of that information.

[27] The \$450.00 in fees paid by each regulated member covers the costs of operating the ACMDTT as required by the Health Professions Act. It also funds required committees, and maintenance of registration and CCP programs among other expenses. The fee amount is determined by College council.

[28] CCP hours are set by the CCP Committee. They were decided upon after reviewing many other colleges both nationally and internationally. The 24 hour requirement is in alignment with the Ontario College which requires 25 hours. Several other provinces are either not regulated yet and therefore have no continuing education requirements or they use a different method of measurement and are therefore not comparable to the ACMDTT.

[29] Ms. Richmond reaffirmed that education is vital to our role as professionals and the monitoring of the CCP through analytics is required but not more important than the education itself.

### **Evidence from Karen Stone via Affidavit**

[30] Mr. ██████ did not object to Ms. Stone's evidence being entered by affidavit and did not ask to examine her on her affidavit. Accordingly, the Hearing Tribunal accepted Ms. Stone's affidavit evidence as uncontradicted.

[31] Ms. Stone's affidavit evidence can be summarized as follows.

[32] Ms. Stone has three responsibilities with the ACMDTT including: Chief Executive Officer, Registrar, and Complaints Director.

[33] In her role as Complaints director she receives and reviews complaints from the public, ACMDTT committees and employers.

[34] It is her responsibility to determine if a complaint requires further investigation, and the best method to resolve any concerns of unprofessional conduct while maintaining public safety.

[35] It was brought to her attention via the table in Tab 10 that following the April 5, 2017 deadline, 8 regulated members were non-compliant with the CCP. Mr. ██████ was on that list.

[36] Ms. Stone then sent a registered letter dated April 21, 2017 requesting further information from Mr. ██████ before May 5, 2017 (Tab B). There was no reply to this letter.

[37] A second registered letter was sent by Ms. Stone to Mr. ██████ dated Apr 26, 2017 (Tab D) with the confirmed correct address requesting again the same additional information by May 10, 2017 as well other information that affected Mr. ██████'s ability to comply. No reply was received by the deadline.

[38] Ms. Stone was advised by Ms. Hislop that as of May 5, 2017 Mr. ██████ had still not picked up the letter dated April 26, 2017. Ms. Hislop emailed Mr. ██████ advising him that the registered letter had not been picked up and matter is serious and may proceed to a hearing.

[39] Mr. ██████ did not pick up the registered letter dated April 26, 2017 until May 12, 2017. (Tab F) Mr. ██████ did not attempt to contact Ms. Stone. As a result of this, Ms. Stone sent another register letter dated May 16, 2017 (Tab G). Ms. Stone advised Mr. ██████ that she was expanding the scope of the investigation to include concerns about failure to cooperate and that a written response was due May 25, 2017.

[40] Ms. Stone was informed by Ms. Hislop that the May 16, 2017 letter was not picked up and was eventually returned to the ACMDTT unopened. (Tab G)

[41] As of May 24 2017 Ms. Stone had no response from Mr. [REDACTED]. Ms. Stone sent an email dated May 24, 2017, advising him a that written response was due May 25, 2017. On May 25, 2017 Mr. [REDACTED] sent a reply that “corrective action has been taken”. (Tab H)

[42] Ms. Stone has never received a reply to the questions she asked Mr. [REDACTED] in either of her letters dated April 26, 2017 and May 16, 2017. Ms. Stone then decided to refer this matter to a hearing in accordance with s. 66(3) of the HPA.

[43] A registered letter dated June 8, 2017 was sent to Mr. [REDACTED] advising him of a scheduled hearing date of July 10, 2017. Also enclosed was the Notice of Hearing and the disclosure package sent by Hearings Director Ms. Wolf. (Tab I). Ms. Wolf indicated that this letter was delivered by process sever. (Tab J) on June 12, 2017.

[44] The July 10, 2017 letter was delivered to Mr. [REDACTED]. Ms. Stone became aware that the 30-day notice required by s. 77 of the HPA was not met. Ms. Stone contacted Ms. Akgungor who was her my legal counsel. Ms. Akgungor sent an email to Mr. [REDACTED] asking him to waive the 30-day requirement. (Tab K). Mr. [REDACTED] did not respond to Ms. Stone or to Ms. Akgungor.

[45] A new letter dated June 15, 2017 was sent by Ms. Wolf via process server to Mr. [REDACTED] and was confirmed delivered to Mr. [REDACTED] on June 15, 2017 (Tabs L and M). This also contained a new hearing date for July 14, 2017 with Notice of Hearing.

**Evidence from [REDACTED]**

[46] Mr. [REDACTED] testified briefly but candidly by admitting that he had made several mistakes including not completing the CCP online and not taking remedial steps seriously or promptly enough.

[47] Mr. [REDACTED] stated that he is now in compliance with the CCP program requirements for the period September 1, 2015 to August 31, 2016.

[48] On cross-examination by Ms. Haymond, Mr. [REDACTED] confirmed that he provided his e-mail address and mailing address to the College so that the College could communicate with him and that it was his responsibility to read any communications from the College.

[49] Mr. [REDACTED] stated he is aware that he must comply with CCP requirements in order to renew his practice permit.

[50] Mr. [REDACTED] indicated that he was aware that the CCP was changing and that he failed to understand the importance of the online platform and did not appreciate the necessity to log on to that platform.

[51] Mr. [REDACTED] confirmed that he never responded to Ms. Stone’s letters to him concerning her investigation. In terms of Tab D to Ms. Stone’s affidavit, he stated that there was no explanation for his lack of response concerning the May 10, 2017 letter.

[52] In response to Ms. Haymond's questions, Mr. [REDACTED] agreed that he had a cavalier attitude toward his regulatory body and that his attitude was not acceptable for regulated members of the College.

[53] In answer to questions from the Hearing Tribunal, Mr. [REDACTED] stated that there were no mitigating circumstances that would excuse his behavior.

#### **IV. Submissions of the Parties**

##### **Submissions of the Complaints Director**

[54] The Complaints Director submitted that the allegations against Mr. [REDACTED] have been proven by the facts.

[55] The evidence given by Ms. Richmond outlined the efforts made by the ACMDTT to assist regulated members transition to the new mandatory My CCP platform and the changes to the CCP. This included communication in the form of Newsletters and E-blasts from September 2014 to March 2017. Also, opportunities for remediation were given to non-compliant regulated members through an email dated March 13, 2017 and March 29, 2017 additionally a reminder email was sent April 1, 2017. Following these efforts all but 8 regulated members were fully or partially compliant by the April 5, 2017 deadline.

[56] Those 8 names were forwarded to the Complaints Director and Mr. [REDACTED] was then contacted by registered letter by Ms. Stone via process server. There was no timely response by Mr. [REDACTED].

[57] Further the Complaints Director submitted that these proven actions constituted unprofessional conduct based on the following:

##### **Allegation 1**

1. Health Professions Act Section 1(1)(pp)(vi)(a): "unprofessional conduct" - failure or refusal to comply with the requirements of the continuing competence program.
2. Standards of Practice 2.1(g) Adhere to legal obligations required by the College.
3. Standards of Practice 2.2(f) Participate in the College's Continuing Competence Program.
4. Code of Ethics 2(h) Legislative requirements: A regulated member recognizes that the self-regulation of the profession is a privilege and abides by the legislated parameters and obligations of being a member of the College.

### **Allegation 2**

1. Code of Ethics 2(h) Legislative requirements: A regulated member recognizes that the self-regulation of the profession is a privilege and abides by the legislated parameters and obligations of being a member of the College.
2. Code of Ethics 2(b) Honesty: A regulated member demonstrates honesty and truthfulness in his/her professional relationships with colleagues, patients and patient representatives.

The Complaints Director does recognise that there was no attempt to deceive the ACMDTT but the declaration was false and Mr. [REDACTED] needs to be aware of his obligations as a regulated member.

### **Allegation 3**

1. Health Professions Act 1(1)(vii)(b) “unprofessional conduct” failure or refusal to comply with a request of or co-operate with an investigator.

## **V. Decision and Findings**

[58] The Hearing Tribunal finds that all the allegations have been proven and that the conduct constitutes unprofessional conduct.

### **Allegation 1**

[59] The Hearing Tribunal finds that the first allegation is proven. The Hearing Tribunal carefully considered the exhibits, the witness and member testimony, Ms. Stone’s affidavit and the submissions from both parties in making its finding.

[60] The Hearing Tribunal accepted the position of the Complaints Director that there was no attempt to access the My CCP platform prior to March 2017 when the first remediation opportunities were offered to all regulated members not in compliance.

[61] Mr. [REDACTED] does not dispute this allegation or the evidence in support of it.

### **Allegation 2**

[62] The Hearing Tribunal finds that the second allegation is proven. The Hearing Tribunal carefully considered the exhibits, the witness and member testimony, Ms. Stone’s affidavit and the submissions from both parties in making its finding.

[63] The Complaints Director presented compelling evidence through the exhibits, Ms. Richmond’s testimony and Ms. Stone’s affidavit establishing that Mr. [REDACTED] indicated that he was compliant with the required CCP (Tab 5) and that Mr. [REDACTED] had made no attempt to access the mandatory online My CCP platform (Tab 6).

[64] Mr. [REDACTED] explained that he had been complying with the previous accepted CCP and completed the paper forms. He stated that he would never knowingly make a false declaration and

that he was unaware of the mandatory nature of the new My CCP platform. However, the evidence established that he was not in compliance with the current CCP requirements. The Hearing Tribunal concluded that it was his professional responsibility to know those requirements and to adhere to them --- including the mandatory on-line requirements.

[65] Mr. ██████ did not dispute the evidence presented concerning this allegation.

### **Allegation 3**

[66] The Hearing Tribunal finds that the third allegation is proven. The Hearing Tribunal carefully considered the exhibits, the witness and member testimony, Ms. Stone's affidavit and the submissions from both parties in making its finding.

[67] The Hearing tribunal accepted the evidence submitted by the Complaint's Director including the sending of the registered letter and proof of delivery dated May 12, 2017 (Tab F) and that no response was received from Mr. ██████.

[68] The Hearing Tribunal also noted that the registered letter sent on May 16, 2017 was returned to ACMDTT unopened (Tab G).

[69] On May 24, 2017 the Complaints Director then sent an email to Mr. ██████ advising him that a written response was due May 25, 2017. On May 25, 2017, an email was sent from Mr. ██████ stating "corrective action has been taken". Importantly, the Complaints Director has never received a reply to the questions asked in either of the letters sent to Mr. ██████..

### **Unprofessional Conduct: Additional Comments**

[70] For the reasons outlined above the Hearing Tribunal finds that Allegations 1 through 3 are factually proven on the balance of probabilities.

[71] The Hearing Tribunal considered whether Mr. ██████'s conduct constituted "unprofessional conduct" as defined in Section 1(1)(pp) of the Health Professions Act which includes failure or refusal to comply with the requirements of the continuing competence program and failure or refusal to comply with a request of or co-operate with an investigator.

[72] The ACMDTT has established a Continuing Competence Program in accordance with the requirements of the HPA. Participation in the program is a mandatory duty of regulated members of the ACMDTT and the evidence established that Mr. ██████ failed to comply with his duty to complete the CCP requirements.

[73] Standards of Practice section 2.1(g) requires regulated members to adhere to legal obligations required by the College, and section 2.2(f) requires regulated members to participate in the College's Continuing Competency Program. Mr. ██████ did not comply with the mandatory CCP participation by the College's deadline and extensions to that deadline. His conduct clearly breached these Standards of Practice.

[74] The Code of Ethics principle 2(b) requires honesty and truthfulness in a regulated member's professional relationships with colleagues. The Hearing Tribunal agrees with the

Complaints Director that “colleagues” includes the College. Mr. ██████’s false declaration on his 2017 renewal contravened principle 2(b).

[75] The Hearing Tribunal was prepared to consider any mitigating factors submitted by Mr. ██████ leading to his false declaration, however, he expressly stated that there were no mitigating factors that would justify or explain his conduct. He candidly admitted that he was aware of the mandatory on-line nature of My CCP participation but failed to understand its importance.

[76] Section 1(vii)(b) of the HPA defines “unprofessional conduct” as failure or refusal to comply with a request of or co-operate with an investigator. The evidence clearly established that Mr. ██████ failed to respond to numerous requests from the Complaints Director in a timely manner.

[77] Again, the Hearing Tribunal was willing to take into consideration personal mitigating factors however Mr. ██████ stated that he had none. Mr. ██████ did not comply with the requests made and his conduct is in contravention to the HPA section 1(1)(vii)(b).

[78] The ACMDTT is a self-regulating college. The Code of Ethics principle 2(h) states A regulated member recognizes that the self-regulation of the profession is a privilege, and abides by the legislated parameters and obligations of being a member of the College. Mr. ██████’s conduct undermines the ACMDTT’s ability to engage in self-regulation.

[79] Mr. ██████’s conduct constituted unprofessional conduct on the basis of a lack of compliance and contravention of the Code of Ethics and the Standards of Practice.

## **VI. Sanctions**

[80] The decision of the Hearing Tribunal and findings of unprofessional conduct were provided orally to those in attendance. Both the Complaints Director and Mr. ██████ presented verbal submissions on sanctions at the hearing:

### **Complaints Director Submissions**

[81] The ACMDTT has a responsibility to protect the public and sanctions are a means to ensure that this mandate is achieved

[82] Based on the *Jaswal* case, the following factors are relevant for consideration when determining sanctions:

1. The nature and gravity of the proven allegation: although the conduct is serious in nature the Complaints Director submits that there was no intent to deceive.
2. Age and Experience are not a factor
3. Previous character of the technologist and any prior complaints or convictions: The Complaints Director submits there are not previous concerns to consider.

4. Affected patient: The Complaints Director submits there were no affected patients to consider.
5. Number of times the offence was proven to have occurred: Although there are only three allegations. The Complaints Director and College made numerous attempts to contact Mr. [REDACTED].
6. Role of the technologist in acknowledging the conduct occurred: The Complaints Director submits there was no malicious intent and Mr. [REDACTED] admits his non-compliance.
7. Previous serious financial or other penalties are not a factor.
8. Impact on affected patient is not a factor
9. Presence or absence of any mitigating circumstances: The Complaint's Director submits there are no mitigating factors to consider.
10. Need to promote specific and general deterrence, and thereby, to protect the public and ensure the safe and proper practice of the profession: The Complaint's Director submits there was an initial 44% non-compliance rate, and therefore a need to let the regulated members know that penalties for non-compliance will occur.
11. Degree to which the offensive conduct that was found to have occurred clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct: The Complaints Director submits that Mr. [REDACTED]'s conduct did in fact fall outside the permitted range of conduct.
12. Range of sentence in other similar cases: The Complaints Director submits there are two other cases to consider from the Alberta College of Pharmacists. Momtaz Ebied and Cyril Bright. These were provided to the Hearing Tribunal for review.

[83] The Complaints Director provided a written summary of the penalty orders she was seeking and it was marked as Exhibit 5. The summary of those order requests and the modifications made by the Complaints Director are as follows:

1. The Member will be suspended for a period of 14 days. The period of suspension will commence 14 days after the Hearing Tribunal's decision is provided to him.
2. The Member will, within 30 days of being given a copy of the Hearing Tribunal's decision, submit an essay in a form that is satisfactory to the Hearings Director of approximately two pages in length outlining his responsibilities as a member of the ACMDTT and confirming the importance of complying with his regulatory responsibilities, including:
  - a. Compliance with the CCP Program; and
  - b. Being candid, forthright and honest in all dealings with the ACMDTT and its staff; and

- c. Cooperating with investigations conducted under the HPA and responding to correspondence received from the ACMDTT in a timely manner.
3. The Member is directed to provide written confirmation to the Hearings Director, within 30 days of being given a copy of the Hearing Tribunal's written decision, that he has completed the ACMDTT's Regulation Education module.
4. A copy of the Hearing Tribunal's decision will be provided to the Director of Education, and the Member will be subject to a mandatory CCP audit for the next 2 CCP cycles (i.e. 2017/2018 and 2018/2019).
5. The Member is hereby ordered to pay 100% of the costs of the investigation and the hearing, to a maximum of \$15,000.00, subject to the following:
  - a. The Member must advise the Hearings Director within 30 days of being provided with a copy of the Hearing Tribunal's decision whether he wishes to pay the costs in a lump sum or whether he wishes to pay in installments;
  - b. If the Member elects to pay the costs in a lump sum:
    - i. the costs will be due and owing 60 days after the Member is provided with a copy of the Hearing Tribunal's written decision.
  - c. If the Member elects to pay the costs in installments:
    - i. the costs shall be paid in equal monthly installments over a period of 18 months;
    - ii. the Member must provide the Hearings Director with 18 post-dated cheques made out to the ACMDTT for each monthly installment; and
    - iii. the first installment must be paid within 60 days after the Hearing Tribunal's decision is provided to the Member and the remaining post-dated cheques must be provided at that time.
6. The deadlines referred to in paragraphs 2, 3 and 5 may be extended for a reasonable period of time, in the sole discretion of the Hearings Director. If the Member is seeking an extension, the Member must contact the Hearings Director to request an extension in advance of the deadline, must indicate why the Member cannot comply, and must confirm the date of the newly proposed deadline.
7. In the event that the Member to successfully comply with paragraphs #2, #3 and #5 by the deadlines set out above, or by such other date as agreed to by the Hearings Director, his permit to practice will be automatically suspended pending compliance.

[84] The Complaints Director further submitted that the costs of the discipline process should be borne by Mr. [REDACTED] as it would be inappropriate and unfair for all other regulated members to bear the cost of a hearing.

## **Submissions**

[85] Mr. ██████ apologized for taking the Tribunal's time and energy to address his unprofessional conduct. Mr. ██████ stated that he will never breach CCP requirements again and that he was very cognizant of the seriousness of his actions.

## **VII. Orders**

[86] The Hearing Tribunal carefully considered the Submissions from both the Complaints Director and Mr. ██████ and made the decision to impose the penalties submitted by the Complaints Director with one change to order number 1.

[87] Bearing in mind the applicable *Jaswal* factors, the Hearing Tribunal concluded that as regulated member of the College it was Mr. ██████'s clear responsibility to comply with the CCP requirements (including the on-line components which he had received prior notification of on numerous occasions). Compliance with the CCP is fundamentally important to the life-long learning responsibilities of a professional to ensure the provision of safe and competent care.

[88] The Hearing Tribunal found Mr. ██████'s submissions to be candid, forthright and sincere. The Hearing Tribunal concluded that, despite his unprofessional conduct, Mr. ██████'s testimony was credible and truthful and that he showed insight into the seriousness of his unprofessional conduct and his failure to recognize the important role of his regulatory College.

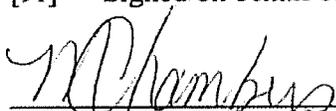
[89] In light of the foregoing, the Hearing Tribunal hereby made the following orders pursuant to section 82 of the HPA:

1. The Member will be suspended for a period of 10 consecutive days. The period of suspension will commence 14 days after the Hearing Tribunal's decision. This is to provided the employer time to cover shifts and uphold patient care.
2. The Member will, within 30 days of being given a copy of the Hearing Tribunal's decision, submit an essay in a form that is satisfactory to the Hearings Director of approximately two pages in length outlining his responsibilities as a member of the ACMDTT and confirming the importance of complying with his regulatory responsibilities, including:
  - a. Compliance with the CCP Program; and
  - b. Being candid, forthright and honest in all dealings with the ACMDTT and its staff; and
  - c. Cooperating with investigations conducted under the HPA and responding to correspondence received from the ACMDTT in a timely manner.
3. The Member is directed to provide written confirmation to the Hearings Director, within 30 days of being given a copy of the Hearing Tribunal's written decision, that he has completed the ACMDTT's Regulation Education module.

4. A copy of the Hearing Tribunal's decision will be provided to the Director of Education, and the Member will be subject to a mandatory CCP audit for the next 2 CCP cycles (i.e. 2017/2018 and 2018/2019).
5. The Member is hereby ordered to pay 100% of the costs of the investigation and the hearing, to a maximum of \$15,000.00, subject to the following:
  - a. The Member must advise the Hearings Director within 30 days of being provided with a copy of the Hearing Tribunal's decision whether he wishes to pay the costs in a lump sum or whether he wishes to pay in installments;
  - b. If the Member elects to pay the costs in a lump sum:
    - i. the costs will be due and owing 60 days after the Member is provided with a copy of the Hearing Tribunal's written decision.
  - c. If the Member elects to pay the costs in installments:
    - i. the costs shall be paid in equal monthly installments over a period of 18 months;
    - ii. the Member must provide the Hearings Director with 18 post-dated cheques made out to the ACMDTT for each monthly installment; and
    - iii. the first installment must be paid within 60 days after the Hearing Tribunal's decision is provided to the Member and the remaining post-dated cheques must be provided at that time.
6. The deadlines referred to in paragraphs 2, 3 and 5 may be extended for a reasonable period of time, in the sole discretion of the Hearings Director. If the Member is seeking an extension, the Member must contact the Hearings Director to request an extension in advance of the deadline, must indicate why the Member cannot comply, and must confirm the date of the newly proposed deadline.
7. In the event that the Member to successfully comply with paragraphs #2, #3 and #5 by the deadlines set out above, or by such other date as agreed to by the Hearings Director, his permit to practice will be automatically suspended pending compliance.

[90] The change to order 1 in terms of the commencement of the suspension being 14 (and not 7) days after the provision of the decision to Mr. [REDACTED] was deemed appropriate by the Hearing Tribunal to allow Mr. [REDACTED]'s employer sufficient time to change work schedules to maintain patient care and to consider other employees' shift changes.

[91] Signed on behalf of the Hearing Tribunal this 4 day of August 2017.

  
\_\_\_\_\_  
Marlene Chambers, Chair