



Finding of ACMDTT Member #11032



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 10 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:

Christy McIntyre, MRT (NM), panel chair and registered member
Marlene Chambers, MRT (R), panel member and registered member
James Lees, public member

Blair Maxston, independent legal counsel for the Hearing Tribunal

Karen Stone, Complaints Director
Ayla Akgungor, Legal Counsel for the Complaints Director

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

I. Preliminary Matters

- [1] Ms. [REDACTED], was advised of her right to attend the hearing in person. She chose to waive this right and attended the hearing by Skype.
- [2] Ms. [REDACTED], confirmed at the hearing that she understood her right to obtain legal counsel. She confirmed at the hearing that she was waiving this right. Ms [REDACTED] also confirmed that she had received the Notice of Hearing and raised no issues regarding the Notice.
- [3] There were no objections to the jurisdiction of the Hearing Tribunal.

II. Allegations

- [4] 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 you non-cooperation with the requests of the Complaints Director.

III. Exhibits

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

1. Notice of Hearing dated June 8, 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 Phone call log;

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

Tab 11 Letter from Karen Stone to [REDACTED] dated April 21, 2017 and Canada Post confirmation of delivery;

Tab 12 Letter from Karen Stone to [REDACTED] dated May 16, 2017 and Canada Post confirmation of delivery;

Tab 13 E-mail from [REDACTED] dated May 28, 2017 for Karen Stone.

3. Screen grab of ACMDTT registration information for [REDACTED];
4. ACMDTT Penalty recommendations;

IV. Evidence

[6] The following individuals were called as witnesses by the Complaints Director:

1. Dacia Richmond
2. Karen Stone

[7] Ms. [REDACTED] gave evidence on her own behalf. Ms. [REDACTED] did not call any witnesses on her behalf.

Evidence from Dacia Richmond

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

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

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

[11] Ms. Richmond testified that in 2014 the CCP Committee (the "Committee") voted to institute minor changes to the CCP 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.
- [12] 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.
- [13] Ms. Richmond advised 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.
- [14] Monitoring of the CCP happens two ways:
1. Random Audit which is completed 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.
- [15] Participation in the CCP became mandatory in 2009.
- [16] 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 email for these mail outs.
- [17] 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.
- [18] An E-mail 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 Ms. [REDACTED] did not respond to this email or ask any questions regarding the new My CCP platform.
- [19] 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 Ms. [REDACTED] declared compliance with the CCP.
- [20] As of March 27, 2017, approximately 50% of the 997 non-compliant regulated members remediated their compliance. And a second E-mail dated March 29, 2017 was also sent to the remaining non-compliant regulated members (Tab 7).

- [21] The follow up phone calls (Tab 8) were made to Ms. [REDACTED] on March 31, 2017 by Michelle Wolf and on April 18, 2017 by Ms. Richmond. Both times messages were left and there was no reply made by Ms. [REDACTED].
- [22] Ms. Richmond sent a reminder E-mail Dated April 1, 2017 (Tab 9) to the remaining non-compliant regulated members. In this reminder E-mail she did not restate the deadline extension to April 5, 2017 which was granted in the March 29, 2017 E-mail.
- [23] 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.
- [24] 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.
- [25] As of the date of this hearing Ms. [REDACTED] had completed her remediation for the 2015/2016 year.
- [26] On Cross Examination Ms. Richmond reconfirmed that the ACMDTT made multiple attempts to communicate the CCP changes and address up any questions regarding the My CCP platform.
- [27] 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, a regulated member has a responsibility to be aware of their requirements for registration and the newsletter is a source of that information.
- [28] 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.
- [29] 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 therefor have no continuing education requirements or they use a different method of measurement and therefore are not comparable to the ACMDTT.
- [30] Ms. Richmond reaffirmed that education is vital to regulated member's roles as professionals and the monitoring of the CCP through analytics is required but not more important than the education itself.

Evidence from Karen Stone

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

- [32] In her role as Complaints Director she receives and reviews complaints from the public, ACMDDT committees and employers.
- [33] 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.
- [34] Ms. Stone testified that 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. Ms. [REDACTED] was one of those regulated members.
- [35] Ms Stone then sent a registered letter dated April 21, 2017 requesting further information from Ms. [REDACTED] before May 5, 2017 (Tab 11). Ms. Stone confirmed there was no reply to this letter.
- [36] A second registered letter was sent by Ms. Stone to Ms. [REDACTED] dated May 16, 2017(Tab 12) requesting again the same additional information by May 25, 2017 as well other information that affected Ms. [REDACTED]'s ability to comply. Ms. Stone confirmed that no reply was received by the deadline.
- [37] A response was received via an E-mail sent to Michelle Wolf from Ms [REDACTED] dated May 29, 2017 (Tab 13).
- [38] Ms. Stone had two concerns with Ms. [REDACTED]'s E-mail response:
1. The E-mail was not sent in a timely matter;
 2. The E-mail did not address the specific questions posed in the letters;
- [39] Ms. Stone testified that these concerns demonstrate a lack of understanding of the responsibilities of a regulated member and did not outline any mitigating factors affecting Ms. [REDACTED]'s ability to comply.
- [40] Ms. Stone confirmed that the registered letters sent were not form letters but individually written for each recipient.

Evidence from [REDACTED]

- [41] Ms. [REDACTED] stated that this was an honest mistake. She showed the Hearing Tribunal a paper copy of her continuing education record. Unfortunately, she was unable to scan the documents to allow the Tribunal to examine them. She further explained that she felt she was in compliance by completing the paper forms and did not realize they were out of date and replaced by an online system. She stated that she was unaware of the mandatory participation of the My CCP platform.
- [42] Ms. [REDACTED] then proceeded to read a statement from notes, submitting that she does not consider herself dishonest or unprofessional. Ms. [REDACTED] stated that she makes mistakes but feels she does her best to always be professional in the work place.

- [43] Ms. ██████ expressed difficulty sharing personal matters with other people and this played a role in her inability to respond to the E-mails and registered letters.
- [44] She described difficulties with health ██████. She testified that these health concerns are related to ██████.
- [45] Ms. ██████ found a new position ██████.
- [46] In February a potential daytime position was not realized and this added to her stress.
- [47] ██████.
- [48] In February and March of 2017, Ms. ██████. She stated this is not normal for her. She usually looks forward to work and doesn't allow outside influences affect her in the workplace.
- [49] During this difficult time Ms. ██████'s to-do pile grew very large and it not only included the registered letters from the ACMDTT but also taxes, school fees and holiday bookings.
- [50] Also Ms. ██████.
- [51] In May she was able to secure some daytime shifts which alleviated some of the stress she was experiencing and she was able to attend to her to-do pile. Unfortunately, she opened the first registered letter sent by Ms. Stone after the May 5 2017 deadline. Ms. ██████ stated that she tried to comply with the second registered letter and replied by May 28, 2017.
- [52] Ms. ██████ explained that she has had a history of poor communication with many organizations, not just the ACMDTT and that she appreciated the number of chances she was given to remediate.
- [53] Ms. ██████ has now secured ██████ position and coping better with her health issues. ██████.
- [54] On Cross examination Ms. ██████ confirmed that she received the E-mail communication but often goes weeks without reading them. She also testified that if she sees a similar subject line she will ignore the E-mail believing that she has already read it.
- [55] Ms. ██████ agreed that she needs to cooperate with the CCP requirements.
- [56] It was confirmed by Ms. ██████ that all the months referred to in her evidence were in the fall of 2016 and spring of 2017.

V. Submissions of the Parties

Submissions of the Complaints Director

- [57] The Complaints Director submitted that the facts supporting the allegations against Ms. [REDACTED] have been proven.
- [58] The evidence given by Ms. Richmond outlined the efforts made by the ACMDDT 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-compliment regulated members through an E-mail dated March 13, 2017 and March 29, 2017. Additionally, a reminder E-mail was sent April 1, 2017. Following these efforts all but 8 regulated members were fully or partially compliant by the April 5, 2017 deadline.
- [59] Those 8 names (one of which was Ms. [REDACTED]) were forwarded to the Complaints Director. Ms. [REDACTED] was then contacted by registered letter by Ms. Stone but there was no timely response by Ms. [REDACTED].
- [60] Further, the Complaints Director submitted that these actions constituted unprofessional conduct based on the following:

Allegation 1

1. Health Professions Act Section 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.

Allegation 3

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

[61] The Complaints Director recognised that there was no attempt to deceive the ACMDTT but the CCP declaration was false and Ms. [REDACTED] needed to be aware of her obligations as a regulated member.

Submissions of [REDACTED]

[62] Ms. [REDACTED] reaffirmed that there was not intent to be dishonest. She stated that she was unaware that she was making a false declaration because she had been completing the CCP on paper. Ms. [REDACTED] submitted that she was having a difficult time in her life and keeping information straight was very challenging and that she would never knowingly make a false statement.

[63] She repeated that she often ignores E-mails and Newsletters with similar subject lines as she believes she has already read them.

[64] Ms. [REDACTED] admitted that she had a lack of communication with the ACMDTT and suggested that [REDACTED] was mitigating factor. Ms. [REDACTED] that she could not [REDACTED] make the connection between the E-mail communication and her need to act upon it.

VI. Decision and Findings

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

Allegation 1

[66] The Hearing Tribunal finds that the first allegation is proven. The Hearing Tribunal carefully considered the exhibits, the witness and member testimony and the submission from both parties in making its finding.

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

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

Allegation 2

[69] The Hearing Tribunal finds that the second allegation is proven. The Hearing Tribunal carefully considered the exhibits, the witness and member testimony and the submission from both parties in making its finding.

- [70] The Complaints Director presented compelling evidence through the exhibits and Ms. Richmond's testimony indicating that Ms. ██████ indicated that she was compliant with the required CCP (Tab 5) and evidence that Ms. ██████ had made no attempt to access the mandatory online My CCP platform (Tab 6).
- [71] Ms. ██████ submitted that she had been complying with the previous accepted CCP and completed the paper forms. She stated that she would never knowingly make a false declaration and that she was unaware of the mandatory nature of the new My CCP platform. However, she was not in compliance with the current CCP requirements and it was her professional responsibility to know those requirements and to adhere to them --- including the mandatory on-line requirements.
- [72] Importantly, Ms. ██████ did not dispute the evidence presented that she had never attempted to access the My CCP platform.

Allegation 3

- [73] The Hearing Tribunal finds that the third allegation is proven. The Hearing Tribunal carefully considered the exhibits, the witness and member testimony and the submission from both parties in making its finding.
- [74] The Hearing tribunal accepted the evidence submitted by the Complaint's Director including the registered letter and proof of delivery dated April 21, 2017 (Tab 11), the registered letter and proof of delivery dated May 16, 2017 (Tab 12) and the only response from Ms. ██████ being an email dated May 28, 2017 (Tab 13).
- [75] Ms. ██████ explained the ██████ she has been coping with and remedies she has undertaken to improve, however she did not dispute that she did not reply to the Complaints Director's request for information by the dates requested.

Unprofessional Conduct: Additional Comments

- [76] For the reasons outlined above, the Hearing Tribunal finds that Allegations 1 through 3 are factually proven on the balance of probabilities.
- [77] The Hearing Tribunal considered whether Ms. ██████'s conduct constituted "unprofessional conduct" as defined in section 1(1)(pp) of the *Health Professions Act*, as follows:
- (vi)(a) failure or refusal to comply with the requirements of the continuing competence program;
 - (vii)(b) failure or refusal to comply with a request of or co-operate with an investigator;
- [78] Significantly, the ACMDTT has established a Continuing Competence Program in accordance with the requirements of the HPA. Participation in the program is mandatory duty of regulated members of the ACMDTT. The evidence established that Ms. ██████

failed to comply with her duty to complete the CCP requirements. The Hearing Tribunal found the testimony of Ms. Richmond and Ms. Stone to be clear, credible and supported by the exhibits.

- [79] Further, 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. Ms. ██████ did not comply with the mandatory CCP participation by the College's deadline and extensions to that deadline. Her conduct clearly breached these Standards of Practice.
- [80] 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. Ms. ██████'s false declaration on her 2017 renewal contravened this principle.
- [81] The Hearing tribunal considered the mitigating factors submitted by Ms. ██████ leading to her false declaration including that she believed that her declaration was not false as she participated in the previously approved CCP. However, she admitted that she was unaware of the mandatory nature of My CCP on-line participation.
- [82] Section 1(vii)(b) of the HPA defines "unprofessional conduct" in part as a failure or refusal to comply with a request of or to co-operate with an investigator. The evidence clearly established that during the investigation Ms. ██████ failed to respond to numerous requests from the Complaints Director at all or in a timely manner.
- [83] The Hearing Tribunal took into consideration personal mitigating factors submitted by Ms. ██████ explaining her delayed response, ██████. Those factors may be relevant to penalty orders but there is uncontradicted evidence that Ms. ██████ did not comply with the investigator's requests and her conduct is in contravention of section 1(vii)(b) of the HPA.
- [84] The ACMDTT is a self-regulating college. The Code of Ethics principle 2(h) states that 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. Ms. ██████'s conduct undermined the ACMDTT's ability to engage in self-regulation.

VII. Sanctions

- [85] The decision of the Hearing Tribunal and findings of unprofessional conduct were provided orally to those in attendance. Both the Complaints Director and Ms. ██████ presented verbal submission on sanctions to the Hearing Tribunal.

Complaints Director Submissions

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

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

- 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.
- Age and Experience are not a factor.
- Previous character of the technologist and any prior complaints or convictions: The Complaints Director submits there are no previous concerns to consider.
- Affected patient: The Complaints Director submits there were no affected patients to consider.
- 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 Ms. [REDACTED].
- Role of the technologist in acknowledging the conduct occurred: The Complaints Director submits there was no malicious intent and Ms. [REDACTED] admits her non-compliance.
- Previous serious financial or other penalties are not a factor.
- Impact on affected patient is not a factor.
- Presence or absence of any mitigating circumstances: The Complaints Director submits there are mitigating factors to consider. Ms. [REDACTED] suffered from [REDACTED].
- Need to promote specific and general deterrence, and thereby, to protect the public and ensure the safe and proper practice of medicine: The Complaint's Director submits there was 44% non-compliance and therefore a need to let the regulated members know that penalties for non-compliance will occur.
- The ACMDTT is a self-regulating organization and Ms. [REDACTED]'s lack of compliance, false declaration and failure to comply with an investigation undermine the efforts of the College to ensure public safety.
- 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 Ms. [REDACTED]'s conduct did in fact fall outside the permitted range of conduct.
- Range of sentence in other similar cases: The Complaints Director submits there two other cases to consider from the Alberta College of Pharmacists (Momtaz Ebied and Cyril Bright). These were provided to the Hearing Tribunal.

- [88] The Complaints Director provided a written summary of the penalty orders she was seeking and it was marked as Exhibit 4. The summary of those order requests and the modifications made by the Complaints Director are as follows:
- [89] Recommendation 1 - the fine of \$1000.00 was removed due to mitigating circumstances.
- [90] Recommendation 2 - an essay of confirmation of the importance of complying with regulatory responsibilities was removed because the issue was addressed during evidence given by Ms. [REDACTED].
- [91] Recommendation 3 - completion of the ACMDTT's regulation education module was removed because it was addressed during evidence given by Ms. [REDACTED].
- [92] The other penalty recommendations submitted by the Complaints Director were:
1. 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. 2016/2017 and 2017/2018).
 2. Subject to paragraph 3 below, the Member is hereby ordered to pay 100% of costs of the investigation and the hearing, to a maximum of \$15,000.
 3. The Member must advise the Hearings Director within 30 days of being provided with a copy of the Hearing Tribunal's decision whether she wishes to pay the costs in a lump sum or whether she wishes to pay in instalments;
 - a. If the Member elects to pay costs in a lump sum:
 - i. The fine and costs will be due and owing 60 days after the member is provided with a copy of the hearing Tribunal's written decision
 - b. If the Member elects to pay the fine and costs in instalments:
 - i. The costs shall be paid equal monthly instalments of a period of 18 months; the Member must provide the Hearing Director with 18 post-dated cheques made out to the ACMDTT for each monthly instalment; and
 - ii. The first instalment 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.
 4. The deadlines referred to in paragraph 3 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.

5. In the event that the Member fails to successfully comply with paragraph 3 by the deadlines set out above, or by such other date as agreed to by the Hearings Director, her practice permit will be automatically suspended pending compliance.

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

[94] Ms. [REDACTED] agreed that sanctions concerning her actions were appropriate and she recognized the need for accountability through annual audits.

[95] Ms. [REDACTED] was concerned about the necessity for financial sanctions as they will be a hardship on her family but is willing to comply.

VII. Orders

[96] The Hearing Tribunal carefully considered the submissions from both the Complaints Director and Ms. [REDACTED] and made the decision to impose the sanctions proposed by the Complaints Director with a minor modification.

[97] Bearing in mind the applicable *Jaswal* factors, the Hearing Tribunal concluded that as regulated member of the College it was Ms. [REDACTED]'s clear responsibility to comply with the CCP requirements (including the on-line components which she 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.

[98] The Hearing Tribunal found Ms. [REDACTED]'s testimony concerning her [REDACTED] hardships to be compelling and sincere and found her circumstances to be significant mitigating factors. The Hearing Tribunal also concluded that Ms. [REDACTED] showed insight and awareness concerning the College's role as a regulatory body and the importance of the CCP. Accordingly, the Hearing Tribunal felt the maximum payment of \$15,000.00 was not appropriate and ordered a lesser maximum payment of \$10,000.00. The Tribunal felt that this modification would still allow the College to recover significant costs and would provide general deterrence thereby ensuring public safety.

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

1. 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. 2016/2017 and 2017/2018).
2. Subject to paragraph 3 below, the Member is hereby ordered to pay 100% of costs of the investigation and the hearing, to a maximum of \$10,000.00.

3. The Member must advise the Hearings Director within 30 days of being provided with a copy of the Hearing Tribunal's decision whether she wishes to pay the costs in a lump sum or whether she wishes to pay in instalments;
 - a. If the Member elects to pay costs in a lump sum:
 - The costs will be due and owing 60 days after the Member is provided with a copy of the Hearing Tribunal's written decision;
 - b. If the Member elects to pay the costs in instalments:
 - The costs shall be paid equal monthly instalments of a period of 18 months; The Member must provide the Hearings Director with 18 post-dated cheques made out to the ACMDTT for each monthly instalment; and
 - The first instalment 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.
4. The deadlines referred to in paragraphs 3 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.
5. In the event that the Member fails to successfully comply with paragraph 3 by the deadlines set out above, or by such other date as agreed to by the Hearings Director, her practice permit will be automatically suspended pending compliance.

Signed on behalf of the Hearing Tribunal this 4 day of August, 2017.



Christy McIntyre, Chair