



Decision of the Hearings Tribunal

ACMDTT Member #7112



**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 September 12, 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 regulated member
Marlene Chambers, MRT (R), panel member and regulated 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”
Taryn Burnett, Legal Counsel for the Member

I. Preliminary Matters

- [1] There were no objections to the Notice of Hearing (Exhibit 1). The day and time for the hearing were changed and all parties confirmed their agreement to that.
- [2] There were no objections to the jurisdiction or composition of the Hearing Tribunal and Mr. Maxston acting as independent counsel for the Hearing Tribunal.

II. Allegations

- [3] The Allegations in the Notice of Hearing 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 24, 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. Withdrawn by the ACMDTT
4. 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 23, 2017 and/or on or about June 1, 2017 and/or on or about June 8, 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.
5. You failed to acknowledge the role of the ACMDTT as your professional regulatory body and/or engaged in communications which demonstrated contempt and/or disrespect for the ACMDTT as your professional regulatory body by doing one or more of the following:
 - a. In an email to the ACMDTT Director of Education dated April 1, 2017, you stated: “to be honest, I have not heard of this (online CCP compliance) as I do not read any correspondence from the college. I feel that the college is a waste of my money and have no interest in any correspondence from them”;
 - b. In an email to the Chair of the ACMDTT Registration Committee dated May 1, 2017, you stated “As I do not read any of the ACMDTT’s correspondence, I was unaware that keeping an on-line record of my continuing education was mandatory”; and
 - c. On or about June 2, 2017, on the ACMDTT public Facebook page, you made a post below a picture of the ACMDTT’s Chief Executive Officer/Registrar, who was pictured during a visit to the University of Alberta Hospital Diagnostic Imaging Services Department, which stated “So this is the face of the person who’s treading my livelihood!!!! Typical!!!”.

III. Exhibits

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

1. Notice of Hearing dated June 13, 2017;
2. Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct (the “Agreed Statement of Facts”) with the following Tabs:

Tab 1 Letter from Karen Stone to [REDACTED] dated May 15, 2017;

Tab 2 E-mail from Karen Stone to [REDACTED] dated June 1, 2017;

Tab 3 Registered Letter from Michelle Wolf to [REDACTED] dated June 13, 2017;

Tab 4 Newsletter excerpt with handwritten date March 2017;

Tab 5 My CCP analytics report for [REDACTED] dated March 2017;

- Tab 6 E-mail from Dacia Richmond dated March 13, 2017 re: ACMDTT Audit of online usage of My CCP platform – potential issue with your non-compliance;
- Tab 7 E-mail from Dacia Richmond dated March 29, 2017 re: ACMDTT Non-Compliance – Not Resolved;
- Tab 8 E-mail from Dacia Richmond dated April 1, 2017 re: ACMDTT CCP – Not complete as of today;
- Tab 9 E-mails between [REDACTED] and Dacia Richmond dated April 1, 2017 re: ACMDTT CCP – Not complete as of today;
- Tab 10 Copies of Declarations made by ACMDTT Members at registration renewal;
- Tab 11 ACMDTT User Login Report for [REDACTED] from My CCP Analytics for 2015/2016 cycle
- Tab 12 Letter from Abbi Langedahl to [REDACTED] dated April 26, 2017;
- Tab 13 Letter from Pree Tyagi to [REDACTED] dated April 25, 2017 and Canada Post confirmation of delivery;
- Tab 14 E-mail from Michelle Wolf to [REDACTED] dated April 28, 2017 re: ACMDTT: CCP Audit;
- Tab 15 E-mails between [REDACTED], Michelle Wolf, Pree Tyagi and Karen Stone dated April 1, 2017 to May 12, 2017 re: CCP Compliance;
- Tab 16 E-mails between [REDACTED], Michelle Wolf, Pree Tyagi and Taryn Burnett dated April 1, 2017 to September 10, 2017 re: CCP Compliance;
- Tab 17 E-mails between [REDACTED], Michelle Wolf, Pree Tyagi and Karen Stone dated April 1, 2017 to May 12, 2017 re: CCP Compliance;
- Tab 18 Letter from [REDACTED] to Karen Stone dated May 17, 2017;
- Tab 19 Letter from Karen Stone to [REDACTED] dated May 23, 2017;
- Tab 20 E-mail from [REDACTED] to Karen Stone dated May 30, 2017 re: CCP Compliance;
- Tab 21 E-mail from [REDACTED] to Karen Stone dated June 8, 2017 re: CCP Non-Compliance;
- Tab 22 E-mail from Karen Stone to [REDACTED] dated June 8, 2017 re: request for further information;
- Tab 23 E-mails between [REDACTED] and Karen Stone dated June 8, 2017 to June 9, 2017 re: Request for further information;

Tab 24 Screen capture print out of ACMDTT Facebook page dated June 2, 2017;

Tab 25 Letter from [REDACTED] to Karen Stone dated 6 July, 2017 including completion information for Section Anatomy 1, CT Basics Module 7 – Procedures, ACMDTT Regulation Education Module, and 2015-16 Record of CCP Activity for these courses;

Tab 26 E-mail from Ayla Akgungor to Taryn Burnett dated July 11, 2017 re: FW: [REDACTED] // Gowling WLG File: [REDACTED];

Tab 27 Health Professions Act current as of January 1, 2017;

Tab 28 ACMDTT Code of Ethics adopted April 16, 2015;

Tab 29 ACMDTT Standards of Practice dated July 5, 2014;

3. Newsletters excerpts and E-blast dated from September 2014 to March 2017.
4. Social Media posts by Dacia Richmond made to Facebook and Twitter November 27, 2015 and August 31, 2016.
5. My CCP login and logout information for [REDACTED]
6. E-mail from Dacia Richmond to [REDACTED] dated April 19, 2017 re: ACMDTT CCP Requirements.
7. Screenshot of [REDACTED]'s In box e-mails dated from January 13, 2012 to June 8, 2017

IV. Evidence

- [5] Pursuant to the acknowledgment of unprofessional conduct portion of the Agreed Statement of Facts, [REDACTED] has made qualified admissions to Allegations 2 and 5 and is disputing Allegations 1 and 4. Prior to the calling of witnesses, Ms. Burnett referred to the fact that some of the members of the Hearing Tribunal were members of prior Hearing Tribunals that had dealt with CCP non-compliance matters and requested assurance from the Hearing Tribunal that its consideration of the Allegations involving [REDACTED] would be dealt with independently and based on evidence in this hearing and not any prior hearings. On behalf of the Hearing Tribunal, the Chair confirmed that was the case.
- [6] The following individual was called as a witness by the Complaints Director:
 1. Dacia Richmond
- [7] The following individual was called as a witness by the Investigated Member:
 1. [REDACTED]

Evidence from Agreed Statement of Facts

- [8] The Agreed Statement of Facts contains background information on [REDACTED]'s ACMDTT membership information, and the conduct being considered by the Hearing Tribunal and a summary of the ACMDTT Continuing Competence Program ("CCP") history and requirements.
- [9] The Agreed Statement of Facts contains facts relating to Allegations 1, 2, 4 and 5 including:

Allegation 1

[REDACTED] failed to complete her CCP requirements through the My CCP online platform on or before August 31, 2016.

A copy of the audit report for [REDACTED] showing that she had not made any entries in the My CCP Platform for any of the self-reflection, learning plan or learning activities as of March 13, 2017 (Tab 5).

An email was sent to [REDACTED] by Ms. Richmond on March 13, 2017 advising her that she was not in compliance with the CCP (Tab 6).

A second email was sent by Ms. Richmond on March 29, 2017 (Tab 7).

[REDACTED] was out of the country between March 2 and March 30, 2017.

A third email was sent by Ms. Richmond to [REDACTED] April 1, 2017 (Tab 8) advising her that she was still in non-compliance and this resulted in an email exchange between Ms. Richmond and [REDACTED] (Tab 9).

[REDACTED] logged into My CCP April 2, 2017 and was advised on April 19, 2017 that she had entered data for the 2016/2017 CCP cycle instead of the 2015/2016 CCP cycle.

[REDACTED] logged in again to My CCP on April 20, 2017.

Allegation 2

On or about November 24, 2016 [REDACTED] completed her practice permit renewal application for the coming 2017 year.

[REDACTED] declared she had fully complied with the requirements of the ACMDTT CCP for the period between September 1, 2015 and August 31, 2016 (Tab 11).

As of November 24, 2016 [REDACTED] had not logged into My CCP online platform or entered any data for the 2015/2016 CCP cycle.

As of November 24, 2016, [REDACTED] had not fully complied with the requirements of the CCP for the 2015/2016 cycle.

Allegation 3

Withdrawn.

Allegation 4

By letter dated May 15, 2017, the Complaints Director advised [REDACTED] that the Complaints Director was treating her non-compliance with the CCP requirement and the Registration Committee's Decision as a complaint under the HPA and the Complaints Director would be investigating the matter. The letter requested a reply by May 30, 2017 (Tab 1).

[REDACTED] responded to the Complaints Director by letter dated May 17, 2017 (Tab 18).

The Complaints Director wrote to [REDACTED] on May 23, 2017 advising [REDACTED] that the ACMDTT had additional requirements for her and that these requirements were to be completed by May 23, 2017 (Tab 19).

[REDACTED] sent the ACMDTT an email on May 30, 2017 meeting two of the three requirements but noted that she would not state that her conduct was unprofessional. (Tab 20).

By letter Dated June 1, 2017, the Complaints Director advised [REDACTED] that she had only partially complied with the requirements, and that the scope of the Complaints Director's investigation was being expanded. A written response was required from [REDACTED] by June 8, 2017 (Tab 2)

On June 8, 2017 at 4:00 am, [REDACTED] sent an email response to the Complaints Director (Tab 21)

On June 8, 2017 at 4:21 pm, the Complaints Director replied to [REDACTED]'s email and asked for further information by 4:00 pm on June 10, 2017 (Tab 22)

[REDACTED] responded to the Complaints Director by email on June 9, 2017 (Tab 23)

Allegation 5

In response to a request from the ACMDTT for [REDACTED] to review her email for notices regarding the CCP, [REDACTED] stated "To be honest, I have not heard of this (online CCP compliance) as I do not read any correspondence from the College. I feel the College is a waste of my money and have no interest in any correspondence from them" (Tab 9).

In response to being served with the Registrations Committee's Decision, [REDACTED] sent an email to Abbi Langedahl stating "As I do not read any of the ACMDTT's correspondence, I was unaware that keeping an on-line record of my continuing education was mandatory" (Tab 15).

At approximately 8:00 am on June 2, 2017, [REDACTED] posted a comment in response to a photo of Karen Stone on the ACMDTT Facebook page stating "So this is the face of the person who's threading my livelihood!!!! Typical!!!!". (Tab 24).

On July 6, 2017, [REDACTED] wrote to the Complaints Director apologizing for her conduct. (Tab 25).

The ACMDTT responded to the July 6, 2017 letter on July 11, 2017 (Tab 26).

- [10] In paragraphs 66 to 69 [REDACTED] acknowledges that on or about November 24, 2016, she declared, as part of her practice permit renewal application, that she had fully complied with the requirements of the CCP for the period from September 1, 2015 to August 31, 2016, when, in fact she had not fully complied with the requirements of the CCP for the period of September 1, 2015 to August 31, 2016 as of November 24, 2016 as she had not entered data into the My CCP platform.
- [11] In paragraph 66 [REDACTED] also acknowledges that she engaged in unprofessional communications with the ACMDTT by doing one or more of the following:
1. In an email to the ACMDTT Director of Education dated April 1, 2017, she stated: "To be honest, I have not heard of this [Online CCP compliance] as I do not read any correspondence from the college. I feel that the college is a waste of my money and have no interest in any correspondence from them."
 2. In an email to the Chair of the ACMDTT Registration Committee dated May 1, 2017, she state "As I do not ready any of the ACMDTT's correspondence, I was unaware that keeping an on-line record of my continuing education was mandatory."; and
 3. On or about June 2, 2017, on the ACMDTT public Facebook page, she made a post below a picture of the ACMDTT's Chief Executive Officer/Registrar, who was pictured during a visit to the University of Alberta Hospital Diagnostic Imaging Services Department, which states "So this is the face of the person who's threading my livelihood!!!! Typical!!!!".
- [12] [REDACTED] acknowledges that, in the circumstances, her conduct amounts to unprofessional conduct within the meaning of s. 1(1)(pp) of the Health Professions Act. (Tab 27).
- [13] [REDACTED] Acknowledges that her conduct described in paragraph 66 of the Agreed Statement of Facts breached one or more of the following requirements in the ACMDTT's Code of Ethics (Tab 28) which states as follows:

Principle 2 – Responsibility to the profession

- 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.

- i. Professional communication – A regulated member adheres to principles of professionalism in communication (i.e., verbal, written, social media).

Principle 3 – Responsibility to oneself

- a. Personal conduct – A regulated member maintains a level of personal conduct that upholds the integrity of the profession and the trust of the public.
- b. Accountability – A regulated member takes responsibility and is accountable for his/her professional activities.

- [14] ██████████ acknowledges that her conduct described in paragraph 66 of the Agreed Statement of Facts breached one or more of the following requirements in the ACMDTT's Standards of Practice (Tab 29) which states as follows:

Standard 2.1 Legislation, Standards and Ethics – A regulated member of the ACMDTT adheres to the legislative requirements governing the practice, Position statements and Practice Standards.

Standard 2.6 Communication - A regulated member of the Alberta College of Medical Diagnostic and Therapeutic Technologists communicates effectively to ensure quality service delivery.

Evidence from Dacia Richmond

- [15] Ms. Richmond is the Director of Education for the ACMDTT which includes the duties of, but not limited to administering the CCP, supporting the CCP Committee, assisting with accreditation process, overseeing advanced practice certifications, acting as resource for members' education and CCP, fielding practice questions from members, functioning in a member services role, assisting branches with meetings and communication to members, and other special projects like the CCP review.
- [16] Within the CCP program Ms. Richmond's duties include administering the program, communicating with members, assisting the CCP committee, and monitoring member compliance.
- [17] Ms. Richmond is a regulated member with the MRT(NM) designation and previously worked as a Nuclear Medicine Technologist at the Cross Cancer Institute.
- [18] Ms. Richmond stated that CCP is mandated under the HPA and compliance with the CCP is mandatory. It is one of her roles to ensure compliance by regulated members.
- [19] Also, Ms. Richmond explained that the CCP consists of three areas: Self-Assessment, Learning Plan and Reflection, and that it requires each regulated member to identify a minimum of two learning objectives, one of which must be met by a learning activity. A regulated member must enter each learning activity, and provide reflection on how that learning activity met the objective originally identified.

[20] Ms. Richmond testified that in 2014 the Continuing Competence Committee (the "Committee") voted to institute 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 Committee moved to a Self-Assessment based on the Standards of Practice. This meant that all regulated 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. This platform would be available starting in 2014 and became mandatory for the 2015/2016 CCP cycle. This would mirror the paper program previously used and would implement the approved changes.

[21] Each regulated member must complete a minimum of 24 hours in an annual cycle from September 1 to August 31 of each year. These dates are offset from the registration dates to allow declaration of CCP compliance at the time of registration.

[22] Monitoring of the CCP happens two ways:

1. Audit – This is completed the fall of each year. This is either a random or directed audit. Members are required to submit their entire CCP.
2. Data Entry Analytics – The ACMDTT does not have access (without regulated member permission) to the detailed entries on My CCP 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 determine if any data has been entered in each of three areas: Self-Assessment, Learning Plan, and Learning Activities.

[23] Online participation in the My CCP platform became mandatory in 2015 as a result of a decision made by the Committee in 2014.

[24] Ms. Richmond confirmed that the Newsletters excerpts and E-blast (Exhibit 3) were composed as a result of the changes made to the CCP by the Committee in 2014, and were sent to members informing them of the upcoming changes from March 2015 to December 2016, as indicated in Ms. Richmond's handwritten notes at the top of each document.

[25] The documents were authored by her except the article titled unprofessional conduct. They were sent via email to each regulated member to the email address the regulated members

are required to supply to the ACMDTT. Newsletters are also available on the ACMDTT website.

[26] If necessary members can update their contact information two ways:

1. Through the ACMDTT members section on the ACMDTT website.
2. Call the ACMDTT office and staff can update the members' registration information.

[27] The Newsletters were sent quarterly, and the E-blasts were sent to the members on the dates indicated on the document. They were sent to [REDACTED] to [REDACTED] which was the email she provided to the ACMDTT. This email was current until June 2017 at which point [REDACTED] updated her email to her work account.

[28] Ms. Richmond is not aware of any bounce backs from the emails sent in Exhibit 3. If there were the registration department would have followed up to ensure the ACMDTT has the correct email and then the communication would have been resent.

[29] Other than the emails sent to the members with the newsletters, Ms. Richmond testified that the newsletters are also available in the ACMDTT website. There is a link in the lower right hand corner of the home page under new news. Also, there are links to the newsletters on social media posts.

[30] CCP Social media posts to Facebook and Twitter were authored and posted by Ms. Richmond (Exhibit 4) and she confirmed there is no way to determine who viewed these posts.

[31] Referring to Exhibit 3, page 1 where it says "The first full cycle of the new CCP will be September 1, 2015 to August 31, 2016. At this time, the use of the online platform will be mandatory for all members." Ms. Richmond confirmed that previously hard copy forms were completed for CCP and retained for 5 years. Prior to 2015 the CCP utilized competency based profile assessments, with two identified objectives and 24 hours of reflective learning which had to meet at least one of the objectives.

[32] Ms. Richmond explained that there were two changes made to the 2015/16 CCP program compared to the one used previously. These changes included:

- a. Move from Competency assessment which was different for each specialty, and did not accurately represent the duties being performed by technologists to a Standards of Practice assessment. This assessment is more applicable to members regardless of their responsibilities, i.e. managers, quality control, or educators.
- b. Prior to the 2015/16 CCP cycle members were not required to identify potential learning activities. By requiring these it makes for a more active role for the members.

[33] In terms of the Newsletter (Exhibit 2, Tab 4) dated March 2017 Ms. Richmond summarized compliance of the CCP by members. It identifies 997 regulated members, which constituted

approximately 44% of the College's 2323 regulated members, who were non-compliant on My CCP as of 13 March, 2017. She stated that [REDACTED] was one of the 997 in non-compliance.

- [34] Following the audit of March 13, 2017 Ms. Richmond sent an email (Exhibit 2, Tab 6) to the 997 members in non-compliance at the email address provided to the college explaining the process and importance of compliance and extended the deadline for compliance to March 27, 2017.
- [35] Ms. Richmond testified that following this email 50% of the 997 members remediated their non-compliance.
- [36] On March 29, 2017 a second email (Exhibit 2, Tab 7) was sent to the remaining non-compliant members offering assistance and a new deadline of April 5, 2017. This was also sent to the email addresses provided by members to the ACMDTT.
- [37] After the April 5, 2017 deadline only 51 members were still in partial or full non-compliance. Ms. Richmond then made phone calls to these members, offering to work with the members to bring them into compliance and to extend the deadline as necessary.
- [38] These phone calls resulted in the following actions:
 - a. The 33 members who had remediated by April 23, 2017 but after the April 5, 2017 deadline were referred to the Registration Committee because they made an inaccurate declaration at the time of renewal and were not in compliance with the CCP.
 - b. The 10 members who were in partial compliance and also made an inaccurate declaration were referred to the Competency Committee.
 - c. The 8 members who were in full non-compliance were referred to the Complaints Director.
- [39] Ms. Richmond testified that of the 33 members referred to the Registration Committee, 32 were found to have met requirements, and one did not. They were then referred to the Complaints Director.
- [40] On Cross Examination Ms. Richmond confirmed that she did not have original copies of the emails in Exhibit 3 and therefore there was no way to verify to whom they were sent or the exact dates of their delivery. She agreed that the only evidence of when the emails were sent was her testimony and the handwritten notes at the top of each document.
- [41] Ms. Richmond agreed that the 44% non-compliance is a high rate.
- [42] Ms. Richmond stated that she received an email from [REDACTED] (Exhibit 2, Tab 9) dated April 1, 2017 that she had been out of the country and had no electronics with her and that she had just checked her email that morning.

- [43] Upon reviewing Exhibit 5 Ms. Richmond stated that it is a copy of the analytics for [REDACTED] and it showed a login date of April 2, 2017 and that she was unable to review the data entered by [REDACTED].
- [44] On the same document Ms. Richmond testified that the term “null” indicates that the member closed the program without logging out.
- [45] Ms. Richmond stated that dialogue occurred with [REDACTED] concerning the fact that she initially completed the My CCP platform for the wrong year. However, Ms. Richmond did not recall if the use of the cycle year “drop down menu” was specifically discussed. However, an email sent on April 19, 2017 (Exhibit 6) from Ms. Richmond explained how to use this dropdown menu.
- [46] Referring to Exhibit 4, Ms. Richmond stated that not all members follow the ACMDTT Facebook page or their Twitter account. She also indicated that there is no evidence of [REDACTED] reviewing these social media accounts.
- [47] Referring to the Exhibit 2, Tab 16 email, Ms. Richmond stated that Ms. Pree Tyagi is the deputy registrar and acting chair of the Registration Committee. [REDACTED] was referred to her and the Registration Committee. Ms. Richmond confirmed that she had no discussion with Ms. Tyagi regarding this email.
- [48] Ms. Richmond confirmed that the email the ACMDTT had on file for [REDACTED] up until June 2017 was [REDACTED] and that if there was no bounce back emails it is safe to assume that an email was delivered.
- [49] Ms. Richmond stated that because [REDACTED] did not receive a bounce back from the email she sent on May 9, 2017 (Exhibit 2, Tab 16) it can be assumed that the ACMDTT received the email.
- [50] After April 2017 Ms. Richmond stated she had no further communications with [REDACTED] and as of April 2017 [REDACTED] was in full compliance of the CCP.

Evidence from [REDACTED]

- [51] [REDACTED] stated that she graduated from the NAIT CLXT program in 1995 and the NAIT MRT program in 2001. She has been a regulated member with the ACMDTT since 2001 and has no previous complaints against her. Currently, she is working at the [REDACTED] as a hybrid X-ray/CT technologist.
- [52] [REDACTED] stated that the first time she became aware of the changes to the CCP program was when she received the April 1, 2017 email (Exhibit 2, Tab 8) and that this was the first communication she received from Ms. Richmond.
- [53] The email response [REDACTED] sent (Exhibit 2, Tab 9) demonstrated her confusion through the statement “What is this?”. Prior to the April 1, 2017 email from Ms. Richmond, [REDACTED] understood that paper documents were all that was needed and she had completed the paper documents for the 2015/16 cycle.

- [54] [REDACTED] testified that prior to the 2015/16 cycle she had previously been audited with the paper documents and received a letter that she had complied with the CCP. This encouraged her to continue with the paper documents.
- [55] [REDACTED] stated that her email prior to June 2017 was [REDACTED] and that she completed a search of all the mail boxes in that account. Her search indicated that no emails from Ms. Richmond were found prior to the April 1, 2017 email.
- [56] Therefore [REDACTED] has no records indicating she received the March 13, 2017 (Exhibit 2, Tab 6) or the March 29, 2017 (Exhibit 2, Tab 7) emails.
- [57] As [REDACTED] was in Thailand from March 2 to 30, 2017, April 1, 2017 was her first opportunity to check her email. When she communicated this to Ms. Richmond she was granted an extension to April 14, 2017 (Exhibit 2, Tab 9)
- [58] [REDACTED] logged in to My CCP at 2:13 AM on April 2, 2017 (Exhibit 5) and completed the My CCP requirements. She logged out 33 minutes later.
- [59] [REDACTED] then stated her next communication from the ACMDTT was April 18, 2017, when she was informed that she was still non-compliant. When asked what year she completed My CCP for she replied whatever year showed up first.
- [60] A follow up email dated April 19, 2017 (Exhibit 6) was then sent to [REDACTED] explaining how to change the cycle year from 2016/17 to 2015/16. [REDACTED] immediately logged into My CCP on April 19 and 20, 2017 to remedy this error (Exhibit 5).
- [61] At this point [REDACTED] stated that she believed the issues were resolved.
- [62] When asked why she declared yes to CCP participation on the document found in Exhibit 2, Tab 10, [REDACTED] stated that she knew she had completed the requirements of the CCP for the 2015/16 cycle on paper documents. She did not appreciate that there had been a change to the CCP from the paper record to the on-line My CCP platform.
- [63] [REDACTED] confirmed that she received the letter from the Registration Committee (Exhibit 2, Tab 12) and that the extension date on page two should be April 14, 2017 not April 7, 2017.
- [64] In this letter [REDACTED] is asked to complete the Regulation Education Module ("REM") and to provide a letter of intentionality behind the false declaration of CCP compliance.
- [65] [REDACTED] explained that to complete the REM she had to login into the ACMDTT website, read some information and answer some questions. She provided verification of completion of the REM on May 1, 2017 in Exhibit 2, Tab 25.
- [66] As for the letter of intentionality, [REDACTED] responded in an email sent May 1, 2017 (Exhibit 2, Tab 16) when she stated "As for my 'false declaration' of my CCP compliance...as far as I was concerned, that on-line record of my education was for personal record only. As I do not read any of ACMDTT's correspondence I was unaware

that keeping an on-line record of my continuing education was mandatory. (not the only tech guilty of this) There was not intentionality involved!!!!”

- [67] ██████’s understanding of the request for a letter of intentionality meant the ACMDTT wanted an admission of a false declaration. As ██████ did not feel she made a false declaration she was therefore not comfortable making an admission to the fact.
- [68] Ms. Tyagi sent an email on May 8, 2017 (Exhibit 2, Tab 16) requesting additional information by May 12, 2017. ██████ confirmed that she received this email and responded on May 9, 2017 (Exhibit 2, Tab 16).
- [69] In her response ██████ stated “If the letter I sent does not satisfy the second requirement then I don’t understand what a documented detailed description of my lack of intentionality is!! I explained how I was unaware of the mandatory on-line record keeping of my education. Not sure what else you require.”
- [70] As well, on May 17, 2017 a letter sent to Ms. Stone (Exhibit 2, Tab 18), ██████ continued to state that “as for the false declaration, I again can only explain it as a misunderstanding. I was under the impression that I was in full compliance at renewal time as I had all my paper records on hand. There was no intent to deceive the ACMDTT.”
- [71] Upon receiving the letter from Ms. Stone dated May 23, 2017 (Exhibit 2, Tab 19), ██████ still believed she was 100% compliant and had completed the REM by May 1, 2017.
- [72] ██████ stated that she does not believe she was unprofessional in her email response to Ms. Stone dated May 30, 2017 (Exhibit 2, Tab 20) when she stated “So once again, I stand behind my original statement regarding my “non-compliance” and that is that I was NOT being unprofessional. I did, as far as my understanding, comply with the CCP. I will not say that my conduct was unprofessional, nor did I fail or refuse to comply.”
- [73] When asked what she was responding to in an email dated June 8, 2017 (Exhibit 2, Tab 21) sent to Ms. Stone, ██████ testified that Ms. Stone kept requesting the same information regarding intentionality and ██████ stated she was unable to answer this issue in a manner satisfactory to Ms. Stone.
- [74] The repeated requests for the same information resulted in ██████ getting frustrated and feeling harassed. ██████ stated that these feelings culminated in the Facebook post (Exhibit 2, Tab 24), “So this is the face of the person threading my livelihood!!!! Typical!!!!”
- [75] These same feelings of frustration lead to the response ██████ provided to Ms. Stone in an email dated June 9, 2017 (Exhibit 2, Tab 23) when she replied “No Comment”. ██████ stated that the “No Comment” response was given to prevent further escalation of the situation.
- [76] ██████ acknowledged that these comments are unprofessional and sent a letter of apology to Ms. Stone dated July 6, 2017 (Exhibit 2, Tab 25).

- [77] ██████████'s frustration also led to the comment in ██████████'s email dated April 1, 2017 (Exhibit 2, Tab 9) when she stated "I do not read any correspondence from the college, I feel the college is a waste of my money and have no interest in any correspondence from them."
- [78] ██████████ testified that this comment came after five emails had been exchanged and she had not received an answer to her question "What is this about?" (Exhibit 2, Tab 9). Upon reflection ██████████ acknowledged that this was not an accurate statement and that she just didn't care at that moment.
- [79] Regarding the apology sent to Ms. Stone (Exhibit 2, Tab 25) ██████████ stated that she never felt that the apology was completely overlooked and not accepted by Ms. Stone or anyone at the College.
- [80] ██████████ entered into evidence an email search from her inbox (Exhibit 7). The search was done by her approximately a couple of months before the hearing but ██████████ couldn't recall the exact date. She did submit that this search serves as evidence that she never received the emails sent from Ms. Richmond dated March 13, 2017 (Exhibit 2, Tab 6) and March 29, 2017 (Exhibit 2, Tab 7).
- [81] The email search was done by ██████████ by entering "ACMDTT" into the search bar and then transferring all the results into her inbox. A screen capture was then made and printed.
- [82] On-Cross examination, ██████████ confirmed that she doesn't know when she completed the email search but was sure it was at least one month ago, maybe July or August.
- [83] ██████████ agreed that all of the June 2017 emails should have been found during the search and should appear in the list.
- [84] ██████████ clarified that when the sender says "me" it means that ██████████ sent the email. "Karen, me" refers to an email exchange between Ms. Stone and ██████████. Also "Pree" means an email received from Pree Tyagi.
- [85] When questioned further ██████████ confirmed she received the following emails:
- Sent May 8, 2017 (Exhibit 2, Tab 15)
 - Sent May 9, 2017 (Exhibit 2, Tab 16)
 - Sent June 8, 2017 (Exhibit 2, Tab 22)
- [86] However, ██████████ acknowledged that none of these emails appear on the list she provided as the result of her e-mail search. When asked if the list of emails was accurate ██████████ testified that it was but acknowledged that it is not complete.
- [87] ██████████ stated that she agreed that it is her responsibility to provide contact information to allow the ACMDTT to contact her.

- [88] [REDACTED] also agreed that she declared “yes” when asked if she had completed the CCP for the 2015/16 cycle and that this pertained to the completed hard copy of the previous CCP.
- [89] When asked to clarify, [REDACTED] agreed that she completed the competency profile self-assessment and not the Standards of Practice self-assessment that was required. However, [REDACTED] submitted that this didn’t affect her learning objectives because learning is always applicable in healthcare and does not rely on the completed self-assessments.
- [90] Also [REDACTED] disagreed that completing a self-assessment based on Standards of Practice would have changed her learning objectives.
- [91] As for the declaration made on November 24, 2017 [REDACTED] acknowledged that in hindsight she was not compliant with the new CCP but to her knowledge at the time of the declaration she was in full compliance. She agreed that her declaration was not accurate.
- [92] [REDACTED] confirmed that she received the June 1, 2017 letter (Exhibit 2, Tab 2) and agreed that new issues were raised in this letter by Ms. Stone that had not been raised before. However, [REDACTED] continued to express frustrations with the same questions being asked that she felt she could not answer to the ACMDTT’s satisfaction.
- [93] When asked if a member is required to cooperate with their regulatory body, [REDACTED] answered in the affirmative and agreed that “No Comment” is not cooperating.
- [94] With regard to the ACMDTT’s Facebook page, [REDACTED] testified that she did not know the page existed until a colleague sent her a link to the page showing Ms. Stone’s visit to University Hospital Diagnostic Imaging Services department.
- [95] Regarding the comment “I do not read any correspondence from the college” (Exhibit 2, Tab 9) [REDACTED] explained that when she made that comment she was tired from a 21-hour flight, and very frustrated with not having her question “What is this about?” answered immediately. In her view, it took 5 emails to receive a response.
- [96] [REDACTED] confirmed she sent the letter of apology to Ms. Stone (Exhibit 2, Tab 25) after she received the Notice of Hearing (Exhibit 1) and that when she stated in the letter “This was very much a one-time and impulsive decision” she was referring to her previous comments about not reading correspondence from the College. When the Complaints Director asked if it really was “one-time” because there was also the Facebook post [REDACTED] didn’t respond.
- [97] [REDACTED] again confirms that she did not receive the emails sent on March 13 and 28, 2017 by Ms. Richmond. When asked why she did not acknowledge not receiving them immediately she responded: Why would she when she did not know about them?
- [98] On re-examination [REDACTED] again supports her position that when she made the declaration (Exhibit 2, Tab 10) she did think it was accurate at the time of making the declaration.

- [99] The Tribunal asked questions regarding the Login Logout information (Exhibit 5) and if [REDACTED] feels that 33 minutes was adequate time to enter all her information as the process is very involved. [REDACTED] explained she only had two learning activities to enter so therefore 33 minutes was sufficient.

V. Submissions of the Parties

Submissions of the Complaints Director

- [100] The Complaints Director submitted that the facts supporting the remaining four Allegations against [REDACTED] have been proven.
- [101] 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. These communications included frequently asked questions to clarify any misunderstandings. As well social media posts were made on Facebook and Twitter. Although the ACMDTT cannot confirm the audience of these posts they reflect efforts on behalf of the ACMDTT to inform its members.
- [102] The search of emails (Exhibit 7) that [REDACTED] relies on to argue that she did not receive all the communications sent by the ACMDTT should carry very little weight. It has been proven incomplete and inaccurate.
- [103] It is the Member's responsibility to provide accurate contact information to the ACMDTT and the ACMDTT should be able to rely on the contact information provided. The ACMDTT should be able to assume that communications sent to members are received and read and can't follow up with all regulated members to determine if they have received emails.
- [104] The Hearing Tribunal does not need to rule on the issue of not receiving emails but should use it as background.
- [105] Allegation 1 is factually established by the analytics (Exhibit 2, Tab 5) verifying that no attempt was made by [REDACTED] to complete My CCP by March 2017.
- [106] Emails were sent while [REDACTED] was away therefore an extension was issued to April 14, 2017. This deadline was not met by [REDACTED] and confirmed in Exhibit 6, an email from Ms. Richmond.
- [107] As per paragraph 31 of the Agreed Statement of Facts, [REDACTED] was ultimately in full compliance by April 20, 2017, six days after the April 14, 2017 extended deadline.
- [108] Paragraphs 33 through 40 in the Agreed Statement of Facts establish that an inaccurate declaration was made.

[109] [REDACTED]'s failure to comply in a timely fashion is proven through the extensive efforts of the College and Complaints Director to obtain information from [REDACTED] as follows (Exhibit 2):

- a. Tab 1 – May 15, 2017 Letter requesting 3 responses;
- b. Tab 18 – May 17, 2017 Email response;
- c. Tab 19 – May 23, 2017 Complaints Director's response requesting two responses;
- d. Tab 20 – May 30, 2017 [REDACTED]'s response which does not answer two questions posed but continues to maintain she was professional;
- e. Tab 2 – June 1, 2017 Complaints Director's response requesting that four additional points to be addressed;
- f. Tab 21 – June 8, 2017 [REDACTED]'s response to the four points;
- g. Tab 22 – June 8, 2017 Complaints Director's response requesting comment on the Facebook post and not reading emails;
- h. Tab 23 – June 9, 2017 [REDACTED]'s response of "No Comment".

[110] The Complaints Director submits that it is not the timeliness of the responses that is in question but the meaningfulness of each response. [REDACTED]'s responses only raised more questions.

[111] Page 17 in the Agreed Statement of Facts factually establishes [REDACTED]'s unprofessional conduct regarding comments made via email and social media.

[112] Further, the Complaints Director submitted that these proven actions constituted unprofessional conduct based on the following.

Allegation 1

[113] [REDACTED]'s actions are in breach of:

1. Health Professions Act Section 1(1)(pp)(vi)(A): "unprofessional conduct" means 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 (e.g., protected titles, mandatory registration requirements).
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

[114] Paragraphs 32 to 40 of the Agreed Statement of Facts clearly establish the facts for this Allegation. Although there was no intent to deceive, ██████████'s failure to understand the CCP requirements resulted in an inaccurate declaration. Code of Ethics-2(b) Honesty states that a regulated member demonstrates honesty and truthfulness in his/her professional relationships with colleagues, patients and patient representatives.

[115] Allegation 2 is also supported by the qualified acknowledgement from ██████████ at the end of page 17 in the Agreed Statement of Facts.

[116] The Complaints Director also presented a previous ACMDTT discipline decision for the Hearing Tribunal's review regarding member #9945. This decision is very similar in that the declaration was proven inaccurate without having to rule on intent or why the declaration was made.

Allegation 3

[117] Withdrawn

Allegation 4

[118] This Allegation relates to three specific requests by the Complaints Director that were not complied with: May 23, June 1 and June 8, 2017. ██████████ has refused to acknowledge her behaviour as unprofessional.

[119] As members of a self-regulated college, ACMDTT regulated members need to respond in a meaningful way to investigations to maintain public safety and confidence in the profession.

[120] ██████████'s May 30, 2017 email (Exhibit 2, Tab 20) is not a meaningful response. Complying with old CCP requirements is not the same as complying with current CCP requirements and ██████████'s response shows a lack of understanding about that. It is her responsibility to know the current CCP requirements and follow them, however, she was not in compliance with the current CCP requirements.

[121] On cross-examination, ██████████ admitted that she had a duty to cooperate and that she did not fulfill that duty when she provided a "No Comment" responses in her June 9, 2017 email (Exhibit 2, Tab 23).

[122] As well, ██████████'s May 23 and June 1, 2017 responses were not meaningful and do not reflect an admission of unprofessional conduct.

[123] ██████'s actions are in contravention to the HPA as follows:

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

Allegation 5

[124] ██████ has made a qualified acknowledgement of unprofessional conduct at paragraph 66(2) on Page 17 of the Agreed Statement of Facts and her comments show disrespect and contempt for the regulating body by breaching:

- a. Standards of Practice 2.6 – c. Adhere to principles of professionalism regardless of the type of communication (e.g., use of electronic/social media).
- b. Code of Ethics 2 – i. Professional communication: A regulated member adheres to principles of professionalism in communication (i.e., verbal, written, social media).

[125] This Allegation is factually established as unprofessional conduct and goes to the heart of governability, the cornerstone of self-regulation.

Submissions of ██████

Allegation 1

[126] Although significant efforts were made by the College (Exhibit 3) the fact that as of March 2017 almost 50% of the ACMDTT regulated members were non-compliant with the CCP goes to show that the College's communication campaign was ineffective.

[127] It is up to the ACMDTT to prove delivery of communications and there is no proof of delivery of the communications in Exhibit 3, therefore very little weight should be placed on this evidence.

[128] ██████ was not in a minority and although she was out of the country for March of 2017 she addressed the issue of non-compliance at her earliest ability on April 2, 2017 (Exhibit 5), well before the April 14, 2017 deadline.

[129] When informed by Ms. Richmond on April 18, 2017 that she was still non-compliant ██████ remediated immediately on April 19 and 20, 2017 (Exhibit 5).

[130] ██████ wasn't thumbing her nose at the College and was trying to comply with the CCP requirements. She believed she had complied in a timely manner.

[131] Ignorance is a significant factor in this Allegation. Approximately 50% of the ACMDTT's identified as non-compliant and shows there was great ignorance among College members and that E-blasts are not effective communication.

Allegation 2

- [132] The request for information on “intentionality” (Exhibit 2, Tab 12) for a false declaration assumes intent on behalf of the member. In this case [REDACTED] had no intent to deceive (this was a misunderstanding) and therefore there can be no false declaration.
- [133] Also in the communication from Pree Tyagi (Exhibit 2, Tab 16) it stated “This means regardless of intentionality you provided a false declaration when you renewed your permit to practice for 2017”. By accusing [REDACTED] of making a false declaration the College assumed she had intent.
- [134] That was why [REDACTED] responded “If the letter I sent does not satisfy the requirement then I’m not sure what else you require.”

Allegation 4

- [135] Context of the communication between the Complaints Director and [REDACTED] is very important in this Allegation.
- [136] [REDACTED] attempted to respond to the request for intentionality in the letter sent to Ms. Stone (Exhibit 2, Tab 18) when she said “As far as the false declaration, I again can only explain it as a misunderstanding. I was under the impression that I was in full compliance at renewal time as I had all of my paper records on hand. There was no intent to deceive the ACMDTT”.
- [137] There is no way to know what response Ms. Stone expected with regards to intentionality as she did not testify at this hearing. It is believed that Ms. Stone expected a declaration of unprofessional conduct. [REDACTED] would not make such a declaration as she didn’t believe that was true. Not admitting unprofessional conduct is not unreasonable. Ms. Stone wasn’t pleased but [REDACTED] had complied and therefore hadn’t behaved in an unprofessional manner. [REDACTED] simply wouldn’t admit unprofessional conduct.
- [138] With regards to the previous ACMDTT decision presented by the Complaints Director involving member #9945, this decision should not be considered because the Investigated Member did not have legal representation and we do not know what legal arguments would have been made on the member’s behalf.
- [139] The Tribunal is encouraged to make an independent decision based on the facts of this case and not to rely on previous decisions.
- [140] [REDACTED] did send a letter of apology (Exhibit 2, Tab 25), and as Ms. Stone did not testify it is unknown how the College responded to this letter. However [REDACTED] believes it was not accepted. The Tribunal was encouraged to give weight to [REDACTED]’s attempts to apologize and take accountability for her actions.
- [141] The response of [REDACTED] in the email dated June 9, 2017 (Exhibit 2, Tab 25) stating “No comment” was made because [REDACTED] felt that previous comments fell on deaf ears.

[142] There are no issues of timeliness in [REDACTED]'s responses, however there appears to be a disconnect between [REDACTED]'s responses and the Colleges expectations. The College never made their expectations clear.

Allegation 5

[143] Pursuant to paragraph 67 of the Agreed Statement of Facts, [REDACTED]'s actions were unprofessional, however, there is no evidence of contempt in this Allegation and this was not put to [REDACTED] in questioning.

[144] The Complaints Director has not made out the full Allegation and has only established that this wasn't professional communication.

Complaint Director's Response

[145] Allegation 2 is proven as there were no comments in the Allegation regarding intent. Therefore, the argument regarding intent being required for a false declaration should not be accepted.

[146] The communication from Ms. Tyagi (Exhibit 2, Tab 16) is not relevant as it applied to Allegation 3 which was withdrawn.

[147] The question of intentionality was outlined in Ms. Stone's letter dated 4 June 1, 2017 (Exhibit 2, Tab 2).

[148] The apology letter from [REDACTED] should only be considered during sanctions.

[REDACTED]'s Response

[149] A false declaration cannot be made without proving intent and there is no evidence of intent in this matter.

VI. Decision and Findings

[150] The Hearings Tribunal finds that the remaining Allegations have been proven ~~in-part~~ as described below and that the conduct constitutes unprofessional conduct.

Allegation 1

[151] The Hearing Tribunal finds that the first Allegation is proven. The Hearing Tribunal carefully considered the exhibits, the witness and Member testimony and the submissions from both parties in making its finding.

[152] The facts supporting this charge were clearly established. Among other things, Ms. Richmond's evidence was clear and compelling concerning the various deadlines and extensions given to [REDACTED]. As well, the audit document at Exhibit 2, Tab 5 clearly established that as of March 17, 2017 there were no entries by [REDACTED] regarding the 2015/2016 cycle. As reflected in paragraph 31 of the Agreed Statement of Facts,

ultimately the 2015/2016 CCP requirements were not completed until April 20, 2017 which was six days after the April 14, 2017 extended deadline.

- [153] The Hearing Tribunal accepted the position of the Complaints Director that there was no attempt to access the My CCP platform by [REDACTED] prior to March 2017 when the first remediation opportunities were offered to all regulated members not in compliance. The Hearing Tribunal accepts that [REDACTED]'s responses to non-compliance issues were timely however they still did not meet the April 14, 2017 deadline. Importantly, the applicable definition of "unprofessional conduct" in section 1(1)(pp)(vi)(A) of the HPA does not require intention in order to establish unprofessional conduct.
- [154] The Hearing Tribunal does not accept the argument made by [REDACTED] that the communication in Exhibit 3 was ineffective because there was an almost 50% non-compliance rate at the end of March 2017. Instead, the Hearing Tribunal accepts the submission of the Complaints Director that the communication campaign was effective because as of the April 5, 2017 deadline only 51 members remained non-compliant. This means 99.97% of membership remediated and were in compliance. This supports the effectiveness of the E-blasts sent by the ACMDTT and is consistent with the ultimate responsibility of all regulated members to read ACMDTT communications and, in this case, to be aware of and comply with current CCP requirements.
- [155] The Hearing Tribunal concluded that the communications from the ACMDTT from September 2014 to March 2017 were extensive and were clear in their intent. They accurately described the online My CCP platform as becoming mandatory for the 2015/2016 CCP cycle.
- [156] The Hearing Tribunal finds that it is reasonable to conclude that all ACMDTT emails sent to [REDACTED] were received by her. The ACMDTT used the email address provided by [REDACTED], there was no evidence of "bounce-backs" concerning those emails and [REDACTED] herself admitted that her e-mail search had disclosed emails from the ACMDTT. In the absence of any or any credible evidence to the contrary, the Hearing Tribunal concludes that all of the ACMDTT's e-mails were received by [REDACTED].
- [157] [REDACTED]'s mistaken belief that she had complied with the CCP by keeping paper copies does not excuse her conduct as the ACMDTT provided extensive communications about the CCP new online requirements and it was her responsibility to be aware of and meet those requirements. The Hearing Tribunal agrees with the Complaints Director that it was [REDACTED]'s responsibility to complete the CCP requirements with the correct year/cycle entry.
- [158] The Hearing Tribunal placed very little weight on [REDACTED]'s search of emails in Exhibit 7 allegedly demonstrating that [REDACTED] did not receive the March 13, 2017 and March 27, 2017 emails. That exhibit was proven to be incomplete and inaccurate during cross-examination (see paragraphs 82 to 86 in this decision).

Allegation 2

- [159] The Hearing Tribunal finds that the second Allegation is proven. The Hearing Tribunal carefully considered the exhibits, the witness and Member testimony and the submissions from both parties in making its finding.
- [160] ██████████ acknowledges her unprofessional actions on page 17 of the Agreed Statement of Facts when she says “On or about November 24, 2017, she declared, as part of her practice permit renewal application, that she had fully complied with the requirements of the ACMDTT CCP for the period of September 1, 2015 to August 31, 2016, when, in fact, she had not fully complied with the requirements of the ACMDTT CCP for the period from September 1, 2015 to August 31, 2016 as she had not entered data in to the My CCP platform.” Bearing in mind paragraphs 32 to 40 of the Agreed Statement of Facts, ██████████ has also admitted the crucial facts of Allegation 2 and the Hearing Tribunal concludes her actions were unprofessional conduct as defined in the HPA.
- [161] ██████████ has a responsibility to be aware of and to comply with the current CCP. In any event, her CCP declaration was inaccurate.
- [162] The Hearing Tribunal dismissed the argument that without intent a regulated member could not make a false declaration. Specifically, since there is no reference to a “false declaration” or “intention” in Allegation 2. As mentioned above, the applicable definition of “unprofessional conduct” in section 1(1)(pp)(vi)(A) of the HPA does not require intention in order to establish unprofessional conduct. In short, this Allegation was proven as worded.

Allegation 3

- [163] This Allegation was withdrawn by the Complaints Director.

Allegation 4

- [164] The Hearing Tribunal finds that Allegation 4 is not proven in its entirety. The Hearing Tribunal carefully considered the exhibits, the witness and Member testimony and the submissions from both parties in making its finding.
- [165] The Hearing Tribunal accepts that ██████████’s responses to the investigation were made in a timely manner and were meaningful and cooperative except those made on or about June 9, 2017.
- [166] ██████████’s responses of “no comment” on June 9, 2017 (Exhibit 2, Tab 23) to questions posed by the Complaints Director were clearly uncooperative and not meaningful. ██████████ acknowledged this during cross examination.
- [167] The Hearing Tribunal did not accept the argument that ██████████ felt that her previous comments fell on deaf ears so she did not wish to comment further and therefore she responded “No Comment”. ██████████ had a clear obligation to comply with the investigation of possible unprofessional conduct in a timely and meaningful way.

- [168] However, the Hearing Tribunal has concerns with the request made by the Complaints Director in the May 23, 2017 letter (Exhibit 2, Tab 19). Specifically, request number 1 asks ██████████ to make a “statement of understanding that this conduct is unprofessional conduct under HPA 1(1)(pp)(vi)(A).”
- [169] The Hearing Tribunal accepts ██████████’s position that this request is beyond the jurisdiction of the Complaints Director since only a Hearing Tribunal can make a finding of unprofessional conduct. As well, at the investigation stage ██████████ believed that she had complied with the CCP. Consequently, it was not unreasonable for ██████████ to decline to expressly acknowledge unprofessional conduct during an ongoing investigation.
- [170] Therefore, the Hearing Tribunal did not consider ██████████’s response to this request as unprofessional conduct in and of itself.
- [171] With the exception of the “No Comment” responses in Exhibit 2, Tab 23, the Hearing Tribunal accepts that all other responses made by ██████████ in context of the Complaints Directors investigation were meaningful and cooperative and therefore did not constitute unprofessional conduct.

Allegation 5

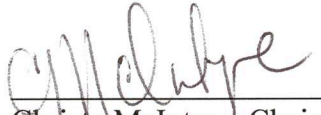
- [172] The Hearing Tribunal finds that Allegation 5 is proven. The Hearing Tribunal carefully considered the exhibits, the witness and Member testimony and the submissions from both parties in making its finding.
- [173] Importantly, for all intents and purpose ██████████ acknowledged this Allegation of unprofessional conduct in paragraphs 66 through 69 of the Agreed Statement of Facts.
- [174] The Hearing Tribunal accepts this acknowledgment, finds that the entirety of Allegation 5 is proven and finds that ██████████’s actions constituted unprofessional conduct.
- [175] The Hearing Tribunal agrees with the Complaints Director that ██████████’s actions are contradictory to the governability required of all members of a profession. The Hearing Tribunal rejects ██████████’s argument this was simply unprofessional communication. Rather, ██████████’s comments showed a fundamental disrespect for her governing body. In terms of Allegation 5(c), that disrespect was public.

VI. Conclusion

- [176] The Hearing Tribunal finds that Allegations 1, 2 and 5 against ██████████ have been proven and that Allegation 4 has been partially proven. The Hearing Tribunal finds that those actions amount to unprofessional conduct.

[177] The Hearing Tribunal suggests the parties arrange for written submissions regarding penalty to be provided to the Hearing Tribunal. However, either party may seek further direction from the Hearing Tribunal if they are unable to agree on a timeline for written submissions or if either party wishes to reconvene the Hearing Tribunal to make oral submissions concerning penalty.

Signed on behalf of the Hearing Tribunal this 7 day of November, 2017.



Christy McIntyre, Chair