

**IN THE MATTER OF A HEARING UNDER THE HEALTH PROFESSIONS ACT,  
R.S.A. 2000 c. H-7  
AND IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF  
JOSHUA NOONAN  
DECISION OF THE HEARING TRIBUNAL OF THE ALBERTA COLLEGE OF  
MEDICAL DIAGNOSTIC AND THERAPEUTIC TECHNOLOGISTS**

The hearing was conducted via Zoom on October 14 and 15, 2025. The members of the Tribunal of the Alberta College of Medical Diagnostic and Therapeutic Technologists (the "ACMDTT" or "College") were:

Andrew Otway, Chair and Public Member  
Shirley Pate, Public Member  
Michelle LeGrandeur, Registrant  
Kelly Sampson, Registrant

Also present were:

Lyndsay Arndt, Complaints Director  
Jason Kully, Legal Counsel to the Complaints Director  
Joshua Noonan, Former Registrant  
Paula Kay, Legal Counsel to Mr. Noonan  
Michelle Wolf, Complaints Manager  
Adrienne Hislop, Hearings Director  
Kelly Cochrane, Court Reporter  
Colleen Wetter, Legal Counsel to the Tribunal

**A. OPENING OF THE HEARING**

1. The Tribunal was advised by the parties that there were no objections to the members of the Tribunal and that no jurisdictional issues were being raised. The Tribunal was advised by Mr. Kully, counsel for the Complaints Director, that he would be making an application to close the hearing, after he made his opening statement.
2. The Tribunal received an Exhibit Book from the Complaints Director with documents marked Tabs 1 to 9. A separate video was provided that was Tab 9. The Tribunal also received a book of documents from Mr. Noonan called Noonan Bookmarked Documents with documents marked Tabs 1 to 14.
3. The Tribunal noted that one member of the public was present as an observer. The Tribunal also clarified that Ms. Hislop was participating in the proceedings in an administrative capacity only and would be seen on screen as Hearings Director.

**B. AMENDED NOTICE OF HEARING**

4. The Amended Notice of Hearing dated April 11, 2025 was marked as Exhibit 1. The Tribunal read the three allegations in the Amended Notice of Hearing. The Amended Notice of Hearing provided:

ONE: On or about August 2, 2023, you distributed an intimate image of Witness 4, a former colleague at South Health Campus, to a different colleague at South Health Campus without Witness 4's consent.

TWO: On or about October 14, 2023, you disclosed a supervisor's, Individual C, private e-mail correspondence that you improperly possessed to a colleague at South Health Campus without the supervisor's knowledge or consent.

THREE: On or about December 13, 2023, you distributed an intimate video of Witness 4, who, at that time, was a colleague at South Health Campus, to a different colleague at South Health Campus without Witness 4's consent.

It is further alleged that the conduct described above constitutes unprofessional conduct as defined in s. 1(1)(pp)(ii) and (xii) of the *Health Professions Act* and/or constitutes a contravention of one or more of the following:

- Code of Ethics, adopted April 16, 2015:
  - 2(a) Personal responsibility
  - 2(b) Honesty
  - 2(f) Integrity and respect
  - 2(g) Legislative requirements
  - 3(a) Personal conduct
  - 3(b) Accountability
- Standards of Practice adopted September 1, 2019, updated March 31, 2023;
  - Standard 2.1: Legislation, Standards, and Ethics
  - Standard 2.4: Professional Boundaries
  - Standard 2.6: Communications
  - Standard 3.1: Collaboration/Professional Relationships

### **C. EXHIBITS**

5. The following exhibits were entered into evidence by either the Complaints Director or Mr. Noonan during the hearing:

|            |                                          |
|------------|------------------------------------------|
| Exhibit 1  | AMENDED NOTICE OF HEARING                |
| Exhibit 2  | WITNESS 1's COMPLAINT REPORTING FORM     |
| Exhibit 3  | JANUARY 19, 2024, TERMINATION LETTER     |
| Exhibit 4  | WITNESS 4's FEBRUARY 14, 2024, COMPLAINT |
| Exhibit 5  | VIDEO                                    |
| Exhibit 6  | TAB 6, OCTOBER 14, 2023, TEXTS           |
| Exhibit 7  | TAB 5, AUGUST 2, 2023, TEXTS (PHOTO)     |
| Exhibit 8  | TAB 7, DECEMBER 13, 2023, TEXTS (EMAIL)  |
| Exhibit 9  | TAB 8, JANUARY 14, 2024, TEXTS           |
| Exhibit 10 | TAB 2 OF NOONAN BOOKMARKED DOCUMENTS     |
| Exhibit 11 | TAB 1 OF NOONAN BOOKMARKED DOCUMENTS     |
| Exhibit 12 | TAB 9 OF NOONAN BOOKMARKED DOCUMENTS     |
| Exhibit 13 | TAB 12 OF NOONAN BOOKMARKED DOCUMENTS    |
| Exhibit 14 | TAB 11 OF NOONAN BOOKMARKED DOCUMENTS    |
| Exhibit 15 | PAGE 30 OF NOONAN BOOKMARKED DOCUMENTS   |

#### **D. OPENING SUBMISSIONS OF THE COMPLAINTS DIRECTOR**

6. Mr. Kully advised the Tribunal that the parties did not have an Agreed Statement of Facts or an agreed exhibit binder. They proposed to mark the exhibits as the hearing proceeds. Mr. Kully clarified that one exhibit is a video.
7. Mr. Kully explained that Allegation 1 relates to an intimate image and allegation 3 relates to an intimate video. The video and image will be presented in evidence and the Tribunal will be required to view the video and image. The image contains nudity although the video does not.
8. Mr. Kully explained that the image and video will be discussed by the witnesses. He hoped to do so with as much respect and dignity as possible but they will need to be discussed. The individual depicted in the image and video was aware that they would be discussed and these would be entered into evidence at the hearing.
9. Mr. Kully argued that the disclosure of the image and video should be limited to only those who need to see them although every witness will be talking about the image and video.
10. Mr. Kully explained the Tribunal is being called upon to inquire into the conduct of Mr. Noonan, who was the subject of two complaints. One complaint was submitted by Witness 1, Mr. Noonan's manager with Alberta Health Services ("AHS"). The other complaint was submitted by Witness 4, a co-worker of Mr. Noonan at various times.
11. Mr. Kully reminded the Tribunal that the only issues to decide are outlined in the Amended Notice of Hearing. He walked the Tribunal through the three allegations and the proposed evidence it will hear from the four witnesses who will be called by the Complaints Director. Mr. Kully stated that Mr. Noonan's conduct was not just something that happened in his personal life and is not off-duty conduct as it impacted Mr. Noonan and Witness 4's ability to work with their colleagues. This is connected to the patients and the professional services provided by Mr. Noonan because a toxic and harmful workplace has an impact on patients.
12. Mr. Kully stated the Tribunal's role in this hearing is two-fold. The first job of the Tribunal is to determine if each allegation is factually proven. The burden of proof in professional discipline proceedings is on the Complaints Director. The standard of proof is the balance of probabilities. The Tribunal must be satisfied that it is more likely than not that the facts alleged in the Notice of Hearing are proven.
13. Mr. Kully explained that if the Tribunal determines that any of the allegations are factually proven, it will have to determine whether the conduct constitutes unprofessional conduct as defined in section 1(1)(pp) of the *Health Professions Act* (the "HPA"). Mr. Kully identified that the relevant provisions are set out in sub (ii) and sub (xii), conduct that breaches a provision of the Code of Ethics or Standards of Practice and, two, conduct that harms the integrity of the profession. Mr. Kully stated that it is evident that unprofessional conduct is not limited to a specific practice of the profession or clinical skills. Unprofessional conduct is broader and includes the type of conduct that is at issue in this hearing because the definition is much broader, and it is not just limited to skills, judgment, or knowledge in the provision of professional services.

14. Mr. Kully explained that the allegations in question are not off-duty conduct but that term relates to conduct that occurs in a registrant's private life, something that they are doing in their home, something that is unrelated to the profession. And even that off-duty conduct can still be unprofessional conduct because of the registrant's role and the professional status in society. This is not a case of off-duty conduct because the conduct is connected to Mr. Noonan's practice of the profession, as it impacted his co-workers, as it related to co-workers, and it impacted his place of work and the other individuals' place of work who were involved.
15. Mr. Kully stated that this is a serious breach of privacy, and that it is at the most extreme end of a breach of privacy. It is a deliberate disclosure of private material that humiliated and disrespected Witness 4. and that, it is obvious, would result in humiliation, disrespect and harm the dignity of Witness 4.
16. Mr. Kully referenced the *Criminal Code* and that the nonconsensual sharing of an intimate image is a criminal offence under the *Criminal Code*. Mr. Kully explained that under section 162(1) of the *Criminal Code*, any publishing, distributing, or transmitting of intimate images without a person's consent is a criminal offence, and that can result in a prison sentence. Mr. Kully clarified that he was not asking the Tribunal to decide if a criminal offence occurred here because that is not the Tribunal's role. In the criminal context, he explained there are three things that need to be proven beyond a reasonable doubt. Firstly, the image must be an intimate image. The definition of an intimate image under the *Criminal Code* means a visual recording of a person in which the person is nude, is exposing their genital, organs or anal region or breasts or is engaged in explicit sexual activity. The second requirement is, at the time of recording, there were circumstances that give rise to a reasonable expectation of privacy. The third requirement is that the person depicted has a reasonable expectation of privacy at the time the image is distributed. Mr. Kully stressed that he was not asking the Tribunal to engage in a criminal analysis but discussed it to display how serious this type of conduct is.
17. Mr. Kully indicated that the photo in this case is an intimate image and would meet the definition under the *Criminal Code*. Using this as a yardstick, if the acts are serious enough to be a criminal offence, certainly, from the Complaints Director's perspective, it is serious enough to be unprofessional conduct. Mr. Kully clarified that there are an intimate image, video and a private e-mail correspondence from the supervisor, which is another breach of confidentiality and privacy, which will be discussed more in the closing.
18. Mr. Kully explained his witness list and that he expected to call all the Complaints Director's witnesses that day.

## **E. APPLICATION TO CLOSE THE HEARING**

### **Complaints Director's Application**

19. Mr. Kully made an application to the Tribunal to close the entire hearing to the public, pursuant to sections 78(a)(iii) and (iv) of the HPA.

20. Mr. Kully explained there is a presumption in section 78 of the HPA that a hearing is open to the public as part of the administration of justice and in line with the public policy goals of the HPA to increase the transparency of professional regulatory system in Alberta. A Tribunal does have authority to close a hearing in certain specific circumstances, as are outlined in section 78(1)(a).
21. Mr. Kully presented that not disclosing a person's confidential personal, health, property, or financial information outweighs the desirability of having the hearing open to the public and that section 78(1)(iv) states the presence of the public could compromise the ability of a witness to testify.
22. Mr. Kully indicated that Witness 4 and others would be testifying about the images and videos that were received and these will be identified and marked as exhibits. These exhibits will contain sensitive information and although they do include some nudity, they will be included as exhibits.
23. Mr. Kully also explained that the witness, Witness 4, will discuss her previous relationship with Mr. Noonan, as that is relevant to the sending of those images, and that is also going to include sensitive, personal, and intimate information.
24. Mr. Kully explained that it would not be appropriate to have the public view those images and to hear evidence related to them, given their sensitive nature and given what they depict. And the presence of any public individual could compromise and would compromise the ability of witnesses to speak freely about those images and videos and the context of the relationships that occurred. Mr. Kully indicated that the Complaints Director does not want to increase the number of people who are seeing the images and know the background. The reason to close the hearing is to protect Witness 4's privacy and to try to maintain as much dignity as possible, given the documents that will be discussed in the hearing.
25. The legislature has recognized that there are certain circumstances where the presumption of transparency that comes from an open hearing is outweighed by the need to ensure there is no prejudice to a witness. Mr. Kully submitted that this is one of those instances where it would be prejudicial to have an open hearing. An open hearing will require Witness 4 to relive her experience before public observers and to give sensitive, personal information publicly. This prejudice to Witness 4 outweighs any benefit of having an open hearing.
26. Mr. Kully submitted that if the Tribunal decides to close the hearing, Mr. Noonan will still be entitled to access the transcript of the entire hearing and he will be present in the hearing. Mr. Noonan is not prejudiced by having this matter closed to the public. Mr. Kully explained that members of the public would not be able to access the transcript of the hearing if the Tribunal closes the hearing, but members of the public will still be entitled to obtain a copy of the Tribunal's decision, which will explain its rationale.
27. Mr. Kully submitted that regardless of the Tribunal's decision to close the hearing, if it is going to keep it open or if it is going to close it, that Witness 4's privacy be respected in the drafting of any decision and that discretion be used where name and details of the images, video and relationship with Mr. Noonan are mentioned.

### **Former Registrant's Submissions About Closing the Hearing**

28. Ms. Kay, Mr. Noonan's legal counsel, responded to the Complaints Director's application to close the hearing. Ms. Kay disagreed with closing the hearing and submitted that closing the entire hearing goes too far. She explained there is a presumption that a hearing is public.
29. Ms. Kay submitted that an alternative to closing the entire hearing is to close parts of the hearing and manage the way in which exhibits are displayed in the hearing. She submitted that the exhibits could be entered into evidence in a closed portion of the hearing so that they are not available to the public. The exhibits could then be referred to only by exhibit number as opposed to displaying the images on screen. She submitted that the witnesses that will be called will know what is being discussed when the picture or the video is referenced. Ms. Kay reminded the hearing tribunal that it is not necessary to constantly have the images on screen when the witnesses are being questioned.

### **Complaints Director's Rebuttal**

30. Mr. Kully questioned whether it was practically feasible to not having individuals identify images. He explained the witnesses will have to see an image to identify it and enter it as an exhibit. The witnesses will have to testify about the nature of the background of the image and the video. There is also information related to the private relationship between the parties.

### **Decision of the Tribunal**

31. The Tribunal determined that it would close most of the hearing to the public by the authority of section 78(2) of the HPA. The opening and closing submissions would remain open to the public and the rest of the hearing would be closed to the public. The Tribunal recognized that the privacy and dignity of the witnesses are important and can outweigh the desirability of an open hearing. The Tribunal explained Mr. Noonan was not prejudiced by closing this hearing, as he will have full access to all the testimony and exhibits as well as the final transcript.
32. Ms. Kay declined to make an opening statement and reserved the right to do so until after the close of the Complaints Director's case.
33. The Tribunal closed the hearing to the public.

### **F. SUMMARY OF WITNESSES FOR THE COMPLAINTS DIRECTOR**

34. The Complaints Director called four witnesses: Witness 1, Witness 4, Witness 2 and Witness 3. A summary of the testimony of the witnesses for the Complaints Director is set out below.

#### **- Witness 1**

35. Witness 1 testified that she is the manager for diagnostic imaging at South Health Campus. She started at South Health Campus in September 2022. She oversees CT, nuclear medicine, administrative support, High River diagnostic imaging and central scheduling for the Calgary zone which is the intake of all MRI and CT requisitions. She also generally oversees the operational day-to-day duties with the department as it supports front line staff which means she would deal with

scheduling, payroll, HR issues, issues between staff members, patient complaints and supporting the director in operational needs.

36. Witness 1 confirmed she submitted a complaint to the ACMDTT about Mr. Noonan on January 22, 2024. Mr. Noonan was one of her direct reports as an MRT in the CT department. She stopped working with Mr. Noonan on January 19, 2024, when he was terminated.
37. Witness 1 submitted a complaint to the ACMDTT because of her responsibility as a manager to report, as a registrant of the ACMDTT and per the Code of Ethics, to report the unprofessional conduct.
38. Witness 1 referred to Exhibit 2 and explained she became aware of private email communication that was accessed most likely through the email of Individual C, the supervisor, and printed copies had been made and shared electronically with other staff members. The email was between Witness 1 and Witness 3 who was in the process of being performance managed and receiving support in the workplace. Witness 1 copied Witness 3's supervisor, Individual C. Individual C replied to Witness 1. Witness 1 had not sent a copy of the email exchange to Mr. Noonan. Witness 1 indicated that Individual C denied she had sent it to Mr. Noonan.
39. Witness 1 testified about how she became aware that Mr. Noonan had disclosed the email. Individual C reported to her that Witness 2, who works in the CT department, received the email from Mr. Noonan. Witness 2 forwarded the copies to Individual C because of concerns of violation of AHS' privacy policy. Individual C reported to Witness 1 that Witness 2 advised that Mr. Noonan sent Individual C's emails. Witness 1 indicated the matter had to be addressed because it was a clear violation of AHS' privacy policy.
40. Individual C showed Witness 1 the email. It was a communication between Witness 1 and Individual C. Mr. Kully marked a copy of the October 14, 2023 texts that were disseminated between Mr. Noonan and Witness 2 as Exhibit 6, for identification.
41. After learning about the email, Witness 1 contacted HR, according to standard procedure, to get advice and determine if it was necessary to pursue a formal HR investigation. An HR investigation was started.
42. Witness 1 testified that every three years, all AHS employees are required to do a privacy policy course, and they sign off on a user confidentiality agreement for AHS. Part of that is the recognition that communications that are internal to AHS, especially between leadership, especially discussing staff members, are to be kept kind of within that form, and people should not be improperly accessing things.
43. Witness 1 testified that if someone has access to someone else's computer account because it is not logged off, they are expected to immediately log out of it and not to go searching through e-mails. If something is printed and left on a printer, the expectation is the person who found the thing would immediately securely dispose of it.
44. Witness 1 explained the concern was that the emails were held by individuals who were not addressed and the communication was not between them. She was also concerned because the communication was about another staff member who

was part of a performance management and coaching program. She was concerned that if this individual found out about the emails that it would erode trust he may have had in his leadership team.

45. The HR fact-finding investigation concluded that Mr. Noonan was in possession of improperly-accessed emails and it resulted in Mr. Noonan's termination from AHS. Witness 1 felt that the emails contributed to a lack of fostering trust in the workplace because it could be perceived as detrimental to another staff member. It also suggested that you are not supporting leadership.
46. Witness 1 testified that she was approached again by Individual C. Individual C advised her that Mr. Noonan had sent intimate pictures of another co-worker, Witness 4, to Witness 2. Witness 2 had contacted Individual C about it. Witness 1 obtained verbal consent from Witness 4 to view the pictures that were of Witness 4. Witness 1 testified that it was easy to see the photo was of Witness 4 because of the defined chin and distinct shoulders. Witness 1 confirmed this was the image she saw during the investigation.
47. Witness 1 testified that in October 2023, Witness 4 was working at Foothills Hospital and also in a casual capacity by picking up shifts at South Health Campus. Witness 1 was concerned the sharing of the image could be a violation of the *Criminal Code* because Witness 4 had not consented to having the image sent to co-workers. Witness 1 went to HR and the HR VP advised that an HR investigation would be pursued.
48. Witness 1 testified that it was a violation of the respectful workplaces policy for AHS. She explained that this policy is basically a prevention of harassment and violence. It addresses worker-to-worker harassment that captures behaviour in or outside of the workplace that can affect people's ability to work together in a safe and respectful manner. This behaviour, because it was sent to another co-worker in the department, would impact Witness 4's ability to work with her co-workers.
49. The HR investigation was done by a director at Foothills hospital and involved witness interviews with Individual C, Witness 4, Witness 2 and Mr. Noonan. The investigation found that Mr. Noonan had sent the image or an image to co-worker Witness 2. Termination was the appropriate level of disciplinary action.
50. Witness 1 testified that in her role as a manager, she believed the sharing of the image by Mr. Noonan was a complete and blatant disregard for Witness 4's privacy and demonstrated a lack of respect towards her. Mr. Noonan's behaviour undermined trust, safety and a respectful work environment.
51. Witness 1 testified that Mr. Noonan's behaviour created a level of fear within the department that people would be targeted by him. Mr. Noonan was put on administrative leave on October 25, 2023 and his date of termination was January 19, 2024. Mr. Noonan's termination letter dated January 19, 2024 was marked as Exhibit 3.

### **Cross examination by Ms. Kay**

52. Witness 1 confirmed Mr. Noonan requested a meeting with her on October 20. They proceeded to hold the meeting in Individual A's office, the director for the South Health Campus portfolio. Witness 1 reported directly to Individual A. Mr.



Noonan wanted to discuss a group Christmas photo with Mr. Noonan's face scratched out that was in Individual C's cubicle and shared supervisor office. Witness 1 testified that she saw the photo and was aware of it before the meeting. Witness 1 denied that Mr. Noonan wanted to discuss receiving unwanted texts of a sexual nature from a co-worker.

53. Witness 1 testified that at the meeting Mr. Noonan brought up two instances during overtime shifts where his two female co-workers asked Witness 1 to leave because they did not want to work with him. Witness 1 allowed the two co-workers to leave because they were having panic attacks and reported to her that they were incapable of working at the time. Mr. Noonan indicated that she was allowing the two co-workers to avoid working with him and that he was being targeted.

54. Witness 1 testified that she asked Mr. Noonan if he would like to pursue a formal HR investigation about the Christmas photo with his face scratched out. Mr. Noonan said he did not want to do that. Witness 1 denied that Mr. Noonan brought up an email that was maligning him or a co-worker.

55. Mr. Noonan raised other issues at the meeting. He felt the female employees within the department were targeting him in terms of making allegations. He felt that the staff members were intimidated by him because of his size, stature and voice. After Individual A declined to stand up so that Mr. Noonan could compare their heights, Witness 1 testified Mr. Noonan got frustrated and left. He swore and said he was not going back to the floor. Witness 1 denied Mr. Noonan said "dock my Foxtrot pay" when he left. She said he used the words "dock my fucking pay." It appeared Mr. Noonan was upset when he left the meeting and said he could not continue to work under the circumstances.

56. Witness 1 testified that telling Mr. Noonan to stop playing the victim is something that Individual A might say but she could not recall if he said it verbatim to Mr. Noonan at the meeting. Witness 1 indicated she may have said that it was high school behaviour on the part of Individual C, regarding the scratched out photo. She denied telling Mr. Noonan to move on.

57. Witness 1 was aware of the photo with Mr. Noonan's face scratched out before this meeting because Individual C brought it up and advised her Mr. Noonan was aware of the photo. Witness 1 testified that prior to this, she was not aware of the photo. Witness 1 said to Individual C the photo was inappropriate and Individual C said she had apologized to Mr. Noonan. Witness 1 testified that Individual C was accountable and recognized the mistake she had made. Witness 1 recalled that Individual C was remorseful because she was not happy with the way that she had conducted herself and could tell that he was affected by the picture.

58. Mr. Noonan and Individual C both reported to Witness 1 but Individual C holds a supervisor capacity where she is an in-scope leader on the floor. Witness 1 did not take disciplinary action against Individual C because an HR investigation was not started. Witness 1 had a coaching conversation with Individual C. Witness 1 stressed that she asked Mr. Noonan if he wanted to make a formal HR complaint about Individual C.

59. Witness 1 testified that she saw the image of the email in a text and it was obvious to her that it was a photo of a hard copy of the email although she did not

know how Mr. Noonan came into possession of the email. She confirmed it was distributed to one employee, Witness 2.

60. Witness 1 had a discussion with Individual C about her comment in the email that it made her laugh that Witness 1 was glad to see Witness 3 back at work. Witness 1 indicated Individual C's tone was not kind.
61. Witness 1 spoke with Witness 2 during the investigation because she was a witness in both HR investigations. Witness 1 testified that Witness 2 mentioned one photograph from Mr. Noonan, and did not mention that Mr. Noonan was receiving a series of unwanted texts of a sexual nature from Witness 4.
62. During the HR investigation, Witness 2 told Witness 1 she was close friends with Mr. Noonan and that he was seeking advice from her about what to do when Witness 4 returned to work at South Health Campus. Witness 2 told her that Mr. Noonan was sending her the email and picture because she was almost like a confidant within the department because his professional working relationships with other members of the department had been eroded at that point in time. Witness 1 testified that Witness 2 told her that Mr. Noonan would often reach out to her to have a conversation or to ask for advice, as friends do.
63. Witness 1 denied that Mr. Noonan told her he was being sexually harassed at work. She said that the only thing he alluded to was that the women in the department were filing complaints about him because they wanted to sleep with him and he did not want to sleep with them. Witness 1 testified that he did not tell her that he considered this a form of sexual harassment.

- **Witness 4**

64. Witness 4 is a nuclear medicine technologist who started working in CT at South Health Campus in 2016. She was currently working at South Health Campus as a full-time CT. She was not working at South Health Campus from September 2022 to August 2023 as she took a temporary position at Foothills. Witness 4 submitted a complaint about Mr. Noonan to the ACMDTT on February 14, 2024 [Exhibit 4].
65. Witness 4 worked with Mr. Noonan at South Health Campus from 2016 until he left and therefore she was not currently working with him. Witness 4 testified that she went to Foothills to work because her relationship with Mr. Noonan was getting messy. Witness 4 testified that she started a sexual relationship with Mr. Noonan in 2020 that went on for about 1.5 years.
66. Witness 4 testified that she submitted a complaint to the ACMDTT because her supervisor, Individual C, had informed her that Mr. Noonan sent an inappropriate photo of her to her co-worker and colleague, Witness 2.
67. In October or November of 2023, when Individual C told her about the photo, Witness 4 was shocked. Individual C suggested Witness 4 talk to management and she did. Individual C did not tell her anything about the photo but Witness 2 did and that she had received it from Mr. Noonan. The photo was shown to Witness 4 who confirmed it was a photo of herself. She cannot recall when Witness 2 showed it to her. Witness 4 indicated she took the photo early in her relationship with Mr. Noonan and texted it Mr. Noonan in 2020. She thought he would like it as they were

in a boyfriend/girlfriend situation and thought it would be obvious to him that it was a picture of her. She did not advise Mr. Noonan he could share the photo with anyone.

68. Witness 4 testified that Witness 1 came to her and encouraged her to take action. Witness 4 testified that it was difficult to work with Mr. Noonan although she was handling it. After learning that Mr. Noonan had shared the photo with Witness 2, Witness 4 became very paranoid that everyone had seen the photo and it became difficult for her to work with her colleagues.

69. Witness 4 testified that she had sent videos to Mr. Noonan when she was in a relationship with him. Witness 4 testified that she sent the video to Mr. Noonan in April or May 2020 and did not send it to him again. She did not tell Mr. Noonan it was her but believed it would be assumed. Witness 4 testified that she did not tell Mr. Noonan in 2020 that he could share the video with anyone.

70. Witness 4 testified that she learned the video had been sent to a colleague at South Health Campus, Witness 3, after she returned from the Foothills. She learned about the video during the ACMDTT's investigation from the investigator, Dan, who advised her the video had been sent by Mr. Noonan to Witness 3. Witness 4 was working with Witness 3 at South Health Campus at the time the video was sent.

71. Witness 4 confirmed the video was a video of herself that she had sent to Mr. Noonan in 2020. The video was marked as Exhibit 5.

72. Witness 4 testified that it became difficult for her to come to work every day and she did not know how to speak to Witness 3 anymore. Witness 4 testified that she did not have the same relationship with her co-worker as before and felt embarrassed and mortified. Witness 4 testified that it was one thing for the photos to be out in the public but a very different thing for it to be at work.

73. Witness 4 testified that she did not send any intimate photos or videos to Mr. Noonan after their relationship ended and prior to 2023.

#### **Cross examination by Ms. Kay**

74. Witness 4 testified that she and Mr. Noonan eventually became friends after they began working together in 2016. She married in 2018. In about March 2020, she began a sexual relationship with Mr. Noonan. She advised Mr. Noonan she was having marital problems. The sexual relationship with Mr. Noonan ended around July 2022. Witness 4 testified that the relationship was messy but denied it got messy because she was with her husband.

75. Witness 4 testified that Mr. Noonan was in another committed relationship with another girl and also seeing multiple women during the time of their relationship, including another co-worker at South Health Campus. At the current time, Witness 4 and her husband were together. Witness 4 could not recall if in July 2022 she was on the phone with Mr. Noonan when her husband came into the room and asked who she was speaking to.

76. Witness 4 recalled that she took the photo in 2020 because that was the time she took pictures of herself and sent them to Mr. Noonan. She took multiple pictures but only one is involved in this matter. Witness 4 does not have a record of the

photo or when she texted it to Mr. Noonan but did have a record of the video that she took in mid 2020, around May. She sent it to Mr. Noonan around the same time. At the time of the hearing, she no longer had a record of it because her phone was destroyed in a car crash and she did not save anything to a cloud.

77. Witness 4 was unsure if there was an official breakup between herself and Mr. Noonan but in July or August 2022 she blocked his number. It was before she started working at the Foothills Medical Centre.
78. Witness 4 denied texting Mr. Noonan from September 2022 to August 2023, during the time she was at Foothills Medical Centre. She denied that the phone number the texts were sent from was her phone number although a phone number was not displayed on the texts. She denied she had sent any of the texts that were put to her from Ms. Kay. These texts, TAB 1 of Noonan Bookmarked Documents, were marked as an Exhibit for Identification, Number 3.
79. Witness 4 found the texts scary because there was a lot of personal information in them that she denied sending to Mr. Noonan. Witness 4 indicated she spoke a lot of the words in the texts to a good friend who worked at South Health Campus and who also had a relationship with Mr. Noonan. Witness 4 indicated that her lawyer had shown her the texts and a phone number was displayed on them.
80. Ms. Kay took Witness 4 to Mr. Noonan's book marked documents, Number 2 and the phone number 825-525-0215. Witness 4 denied this was her phone number. Tab 2 of Noonan Bookmarked Documents was marked as Exhibit 4 for Identification.
81. Additional texts at Tab 3 of Noonan Bookmarked Documents were marked as Exhibit 5 for Identification. Witness 4 did not think she sent the text messages to Mr. Noonan.
82. Witness 4 confirmed that when she blocked Mr. Noonan's phone number in July 2022 she also did not receive texts from him. Witness 4 confirmed she was still working at South Health Campus at that time but Mr. Noonan was on sabbatical and they were not working together.
83. Witness 4 reviewed her complaint where she stated that Mr. Noonan terrorized her since she began working at South Health Campus in 2016 [Exhibit 4]. She confirmed she was friends with him for about 4 years and then in a sexual relationship with him for over 2 years. She confirmed she had had no communication from him for a couple of months before she left South Health Campus and went to the Foothills.
84. Witness 4 denied that she continued to send texts messages and text messages of a sexual nature to Mr. Noonan from about September 2022 to about May 2023. Witness 4 denied that a text in Exhibit 5 for Identification with a picture of a phone with that number is her telephone number and that she had sent the text.

- **Witness 2**

85. Witness 2 had been working as an x-ray tech and CT technologist since 2010. She was currently employed at South Health Campus and has been employed there for 12 years. She knows Mr. Noonan as a co-worker from South Health Campus and

they had worked together for about 10 years. She did not have a current relationship with Mr. Noonan.

86. Witness 2 testified she knew Witness 4 and had worked with her for about 10 years at South Health Campus. Witness 2 worked at Sheldon Chumir for a while and went on two maternity leaves and Witness 4 worked at Foothills. Witness 2 confirmed that she and Witness 4 kept their permanent positions at South Health Campus when they worked in other locations. Currently, Witness 2 and Witness 4 are friendly co-workers. Her relationship with Witness 4 in 2023 was also as a friendly co-worker.
87. In 2023, Witness 2 and Mr. Noonan were friendly co-workers. She and Mr. Noonan would text each other. She explained Mr. Noonan was going through a hard time post-Covid and she was back from her maternity leave. They discussed his mental health and work.
88. Witness 2 was shown Tab 6 of the Complaints Director's documents. She confirmed that they were screenshots of text messages between her and Mr. Noonan. The texts were from October 14, 2023. She recalled the date because the investigator from the ACMDTT required context for the images that Witness 2 had. She reviewed the thread to determine when she began talking to Mr. Noonan. She confirmed Mr. Noonan is the white bubble and she is the blue bubble in the conversation.
89. TAB 6 of the Complaints Director's Documents, October 14, 2023 texts was marked as Exhibit 6.
90. Witness 2 reviewed the text that said, "This made me laugh" and the image below. She received this from Mr. Noonan. She confirmed the image was of an email between her supervisor and manager. Individual C was the supervisor of Mr. Noonan and Witness 2. Witness 1 was their manager. Witness 2 indicated Witness 3 is their fellow co-worker.
91. Witness 2 recalled that Mr. Noonan was having trouble with their supervisor from whom he had asked for a letter of recommendation. She asked him where he got the email from because it was not addressed to Mr. Noonan. She thought the email was a complete breach of privacy and not okay to have. She asked Mr. Noonan how he acquired it and he said from seducing someone on the inside. He eventually texted her that he found them on a printer, a person had printed the emails and forgot or must have forgotten them at the printer. She confirmed she used the word "Foxtrot" which is also a word that Mr. Noonan used.
92. Witness 2 felt worried about how Mr. Noonan accessed the emails and whether someone could access her emails. She testified that she became leery of her surroundings and questioned who she could trust. She became really careful not to leave her email open and to log off the second she left or before she left.
93. After Witness 2 received the text from Mr. Noonan, she testified that she contacted Individual C to talk about it because she felt it was a total invasion of privacy. Individual C messaged Witness 1. Witness 2 was a witness in the investigation and was asked to provide documents.

94. Text messages between Witness 2 and Mr. Noonan dated August 2, 2023 were discussed. Witness 2 was the blue bubble and Mr. Noonan, the white bubble. The texts included an image Witness 2 received from Mr. Noonan of a nude photo. Witness 2 saw a screenshot of Mr. Noonan and his conversation with Witness 4 and a nude photo. Witness 2 could not identify who was in the nude photo but understood it to be Witness 4 because of the comment about the chin and that Witness 4 has a distinct jawline.
95. When Witness 2 received the text she thought it was completely unnecessary that she receive the photo and she felt awkward because they all work together. She understood the point of Mr. Noonan sending the screenshot was to prove that he and Witness 4 were still in contact.
96. Witness 2 recalled working with Witness 4 that day and believed it was Witness 4's first day back at South Health Campus. She didn't believe the screenshot was from that day but that Mr. Noonan was saying Witness 4 was still messaging him.
97. Witness 2 testified that she did not do anything after receiving the text message from Mr. Noonan because she believed it was a photo between two consenting adults and it was none of her business what they did in their extracurricular time. She also did not feel that Witness 4 was trustworthy, based on what Mr. Noonan had said about her. Witness 2 had returned to work after her maternity leave and did not know who to trust because things were weird at work. Witness 2 testified that she was not going to allow the text to affect her relationship with Witness 4 at work and so Witness 2 just ignored it for the time.
98. Witness 2 testified that when she approached Individual C about the email, she brought up that Mr. Noonan had sent her the photo. She thought it was something Individual C needed to know but she did not send the photo to Individual C. Witness 2 testified that there was contradictory information about whether Witness 4 and Mr. Noonan were still in contact with each other. As a mom with two young kids at home, she put up boundaries for how often she and Mr. Noonan communicated together.
99. Witness 2 understood that Individual C advised Witness 4 about the photo.
100. Witness 2 had no doubt that the texts between she and Mr. Noonan were legitimately from him because he had the same phone number for years.
101. Mr. Kully marked the August 2, 2023, Tab 5, that were previously marked as Exhibit for Identification Number 2 as Exhibit 7.

### **Cross Examination by Ms. Kay**

102. Witness 2 confirmed she was a co-worker and friend of Mr. Noonan and exchanged text messages with him in and out of the workplace. He was having issues with Witness 4 and Individual C. Witness 2 recalled that Mr. Noonan was going through a hard time personally and at work in 2023 and told her that COVID was hard on him. He was going through some mental health issues.
103. Witness 2 was aware that Mr. Noonan and Witness 4 had been in a sexual relationship but she found out after it was over. Witness 2 testified that she put the pieces together herself. She became aware that they had been in a relationship in

2023. Witness 4 was working at the Foothills at the time Witness 2 found out they were in a relationship.

104. Witness 2 testified that some of the difficulty Mr. Noonan was having was because Witness 4 was coming back. Witness 4 and Mr. Noonan had been in a relationship and were no longer in a relationship. He told Witness 2 that Witness 4 was still messaging him including messages of a sexual nature. He told her that he and Witness 4 were trying to meet up.

105. Witness 2 did not know when the nude picture was taken. She did not believe it was taken the day she received it because she was working with Witness 4 that day. Witness 2 believed Mr. Noonan was implying that he had received the nude photo recently. Mr. Noonan told Witness 2 that he continued to receive messages from Witness 4. Mr. Noonan showed or sent Witness 2 the texts. Witness 2 testified that Witness 4 continued to message him and he did not respond. Witness 2 testified that she did not think Mr. Noonan told her that he worried about Witness 4 coming back to work and them working together.

106. Witness 2 reviewed Exhibit 7. She was asked about an August 2, 2023 text where she writes to Mr. Noonan "Is she playing both sides of this story line?" Witness 2 testified that she was confused because Witness 4 was being escorted by a co-worker out of work before Mr. Noonan started his shift so there would be no interaction between them. But Witness 4 was still messaging Mr. Noonan. She was confused and questioned if she was still texting him, why the dramatic act by Witness 4 of evading Mr. Noonan.

107. Witness 2 testified that she believed Witness 4 was still texting Mr. Noonan but behaving as though she was afraid of him. Witness 2 gave advice to Mr. Noonan to prevent him from being reactive because he and Witness 4 had to work together. Witness 2 testified that there were other texts with Mr. Noonan about the situation with Witness 4 and she questioned if he still liked her and they had a chance to get back together. Witness 2 testified that she thought Mr. Noonan and Witness 4 were still in communication because of what Witness 4 was reporting to him at the time. Witness 2 was not on maternity leave on August 2, 2023.

108. Witness 2 testified that people at work were taking sides between Witness 4 and Mr. Noonan. Some women who felt slighted by him were not on Mr. Noonan's side. Witness 2 understood that two women had a relationship with Mr. Noonan at the same time he was having a relationship with Witness 4 but she did not know for sure. One of the women left and the other woman was Alex. The people against Mr. Noonan did not want to work with him.

109. Witness 2 testified that Mr. Noonan did not do himself any favours at work because he sometimes felt heated and it came off as aggressive. She had acted as a sounding board and confidant for Mr. Noonan for years.

**- Witness 3**

110. Witness 3 is an x-ray and CT technologist at South Health Campus Hospital and has worked there for the last 12 years. He did work a one year 0.7 maternity leave position at Foothills about 5 to 6 years earlier and 0.7 position at Sheldon Chumir and then returned to South Health Campus.

111. Witness 3 described Mr. Noonan as a co-worker and friend whom he has known for the entire time he worked at South Health Campus. Currently, they talk and text intermittently. His relationship with Mr. Noonan in 2023 was the same as it is now.
112. Witness 3 knew Witness 4 and described her as a co-worker and friend that he had a good relationship with in 2023.
113. Witness 3 testified that he and Mr. Noonan were texting in December 2023. Witness 3 testified that he and Mr. Noonan would have conversations about Witness 4 trying to contact him, communicate with him and Mr. Noonan did not want the contact from her. Witness 4 was still texting him and Mr. Noonan was trying to shut down communications.
114. Witness 3 was shown TAB 7, marked as Exhibit 8 of the Complaints Director's documents. Mr. Noonan is the grey bubble and Witness 3 is the blue bubble. The texts were from December 13, 2023. Mr. Noonan was not working at the time. Witness 3 indicated the texts were with Mr. Noonan because they are from the same number that he texted with Mr. Noonan in the past. As part of the texts is an image with a play button and time. Witness 3 described it as an image of a woman in some sort of outfit, doing something inappropriate. Witness 3 asked Mr. Noonan if it was Witness 4 again because Mr. Noonan had been telling him that she was still texting him even though Mr. Noonan was trying to end communication.
115. Witness 3 indicated he ignored the images because he was in a relationship and it was not something he needed to be a part of. He testified that he never watched the video.
116. Witness 3 testified that he received an investigation letter from Mr. Noonan outlining what Mr. Noonan is being investigated for and what the punishment is. He confirmed he was the blue texts and Mr. Noonan was the grey texts. Witness 3 felt it was unfortunate for Mr. Noonan but Witness 3 was trying to act appropriately for his own career and to look after himself. This was marked as Exhibit 9, Tab 8, January 14, 2024 texts.
117. Witness 3 testified that he did not tell anyone about the messages from Mr. Noonan until the investigator asked him. Witness 3 testified that he did not relay anything Mr. Noonan had talked or texted about to anyone else.

### **Cross Examination by Ms. Kay**

118. Witness 3 testified that in mid to late 2023, the work environment was fine. There were always tensions between people that did not get along well but that did not affect the department as a whole. Witness 3 testified that Mr. Noonan told him he was having difficulty with Witness 4 returning to South Health Campus. Mr. Noonan's work relationship with Witness 4 was not great and Mr. Noonan was worried about the risk of him getting in trouble when Witness 4 returned.
119. Witness 3 testified that Witness 4 was continuing to text Mr. Noonan on an ongoing basis. He asked Mr. Noonan if it was Witness 4 when he received the picture with the play button on it. Witness 3 thought Witness 4 texted Mr. Noonan on an ongoing basis.



120. Mr. Noonan was trying to break communication ties with Witness 4 but she would continue to text him. On more than one occasion, Mr. Noonan showed Witness 3 strings of texts on his phone from Witness 4, including where they would be talking back and forth. Witness 3 testified that Mr. Noonan told him that Witness 4 was sending him sexual messages including texts, pictures, videos. Witness 3 told Mr. Noonan to ignore it.

121. Witness 3 testified that Mr. Noonan was asking Witness 3 if he should report it. Witness 3 told him to drop it and break ties with Witness 4. Witness 3 recalled Mr. Noonan asked him for advice about Witness 4 at least a handful of times. Mr. Noonan was worried about getting in trouble, worried about being reported, worried about doing something wrong. Mr. Noonan expressed to Witness 3 multiple times that he did not know what to do about working with her again, the continuous messaging and trying to cut ties with her. Witness 3 testified that every time Mr. Noonan mentioned it to him or asked for help, he would have an example of a text or a conversation.

### **Re-examination by Mr. Kully**

122. Witness 3 testified that he did not see a phone number or contact name for the text messages from Witness 4 that Mr. Noonan showed him on his phone. Witness 3 assumed that blue was somebody else and grey was Mr. Noonan. Witness 3 testified that he was not focussing on that and Mr. Noonan was showing them to him in passing.

123. Witness 3 did not know if Witness 4 continued to send messages after Mr. Noonan was suspended in December 2023. Witness 3 could not recall any conversations with Mr. Noonan about Witness 4 sending him messages in December 2023.

124. The Tribunal asked Witness 3 if he could provide approximate dates in reference to his statement that Mr. Noonan had shown him a string of text messages that he had reportedly received from Witness 4. Witness 3 indicated that the texts were in or around August or September 2023 and that is the time period when Mr. Noonan was showing or presenting the texts to Witness 3 on his phone.

125. The Complaints Director closed their case, subject to calling Mr. Noonan as a witness as he is a compellable witness.

### **G. FORMER REGISTRANT'S OPENING STATEMENT**

126. The Tribunal opened the hearing to the public.

127. Ms. Kay gave her opening statements. She presented that Mr. Noonan will be giving evidence about his friendly co-worker relationship with Witness 4 that became intimate after Mr. Noonan was advised by Witness 4 her relationship with her husband was over. The sexual relationship lasted over two years while Mr. Noonan and Witness 4 continued to work together. When Mr. Noonan felt he was being lied to by Witness 4, he broke off the relationship.

128. Ms. Kay explained that Mr. Noonan continued to receive text messages from Witness 4 after July 2022, after the relationship had ended and the time she said she stopped texting him and blocked him. Witness 4 continued to send texts of a

sexual nature, including pictures and videos. Mr. Noonan confided in Witness 3 and Witness 2 as they were his confidants and he sought advice from them about a variety of things. Mr. Noonan sought advice about what to do about the text messages from Witness 4 that made him uncomfortable and concerned about the ongoing work relationship. Mr. Noonan told Witness 1 that he was being sexually harassed and that she and her colleague did not take his complaints seriously and dismissed them. Mr. Noonan felt unsafe at work and was being targeted by others.

129. Ms. Kay submitted that Mr. Noonan sought advice because he did not want to jeopardize his employment or anyone else's employment. He did not know what to do and sought advice from two people with no ill intent, no intention to harm anyone.

130. Mr. Noonan lost his employment at South Health Campus and was unemployed for over one full year and moved out of province.

131. The Tribunal closed the hearing to the public.

#### **H. SUMMARY OF THE WITNESS FOR THE FORMER REGISTRANT**

132. The Former Registrant called one witness, himself. A summary of his testimony is set out below.

##### **- Mr. Noonan**

133. Mr. Noonan testified that he has a BSc, a Bachelor of Applied Science, a Masters of Health Administration, a computed tomography imaging certificate, and a certified health executive designation from the Canadian College of Health Leaders. Before he got into his scholarly endeavors, he was a marine engineer systems operator with the Royal Canadian Navy.

134. Mr. Noonan had worked at South Health Campus in Calgary in March 2013. He started at South Health Campus as a computed tomography imaging technologist or a medical radiation technologist 2 until he was dismissed in January 2024.

135. Mr. Noonan worked with Witness 4 at South Health Campus starting in about 2016. He described Witness 4 as a colleague and friend who was lovely to work with and someone who really cared about her job.

136. During COVID in early in 2020, Mr. Noonan was working permanent nights by himself but Witness 4 worked night shifts two days. They became closer and Witness 4 talked to him about her personal difficulties. They began a sexual relationship in March 2020. He believed Witness 4's marriage was over because he would not have engaged in a relationship with her if her marriage was continuing.

137. Mr. Noonan testified that they spent a lot of time together and he considered her his partner. The relationship lasted until July 2022. In July 2022, Witness 4 came over to his place after a night shift and while he was on sabbatical. She left and phoned him that night but did not hang up her phone. Mr. Noonan heard Witness 4 in a private situation.

138. Ms. Kay showed Mr. Noonan text messages dated July 22, 2022, marked as Exhibit 4 for Identification. He indicated that he is the blue bubble and that Witness 4 is the black or dark grey bubble. Mr. Noonan testified that he did not turn off his

phone because he was in shock and disbelief. His text said that "Your phone has been on for the last hour."

139. After Mr. Noonan broke up with Witness 4, on July 28 or 29, 2022 he sent Witness 4 a picture of Witness 4, her husband and another woman. Mr. Noonan had received the picture from another friend. The picture was marked as Exhibit 10, of TAB 2, Noonan Bookmarked Documents. On July 29, 2022, Mr. Noonan was on sabbatical, having started from April to early September 2022. He returned to work at South Health Campus in early September 2022 but Witness 4 continued to work at Foothills.

140. Mr. Noonan testified that he did not communicate with Witness 4 after that but did see her at South Health Campus because she had picked up a casual shift while she was working at Foothills.

141. Starting in September 2022, Mr. Noonan testified that he began to receive messages from Witness 4. Mr. Noonan was on vacation in PEI on September 21, 2022 when he received the first text message from Witness 4 after July 29, 2022. Mr. Noonan testified that the text was workplace gossip. He did not respond. Mr. Noonan had texts between July 29, 2022 and January 21, 2023 from Witness 4 but no longer had them because he got a new phone.

142. The January 21, 2023 text was reviewed. The black or dark grey bubble are messages from Witness 4. Mr. Noonan testified that he did not respond to any of the text messages. The text was workplace gossip. Mr. Noonan did not respond to any of the text messages from Witness 4. They reviewed a January 27, 2023 text message from Witness 4 and Mr. Noonan did not respond to it.

143. A text from February 9, 2023 was reviewed where it referenced that hopefully he blocked Witness 4's number. Mr. Noonan testified that he did not block Witness 4's number because he was fascinated that she knew so much about the hospital where he worked although she was working at Foothills at the time. Mr. Noonan did not respond to any of the texts. A text from March 9, 2023 was reviewed. It referenced an address that Mr. Noonan was not familiar with. He believed Witness 4 was inviting him to see her at that address. He did not go and did not respond to the text.

144. Additional texts were reviewed by Mr. Noonan including from March 28, 2023 that are more personal and were sent by Witness 4. The texts were marked as Exhibit 11 – Tab 1 Noonan documents.

145. Mr. Noonan testified that he never texted her to ask her to stop sending texts to him. He did tell her in person to stop when they were working together.

146. Mr. Noonan testified that he did not go to HR because he had never gone to HR in his entire career. He talked to Witness 2 and Witness 3 about the texts. He also relied on a group of guys who support him. Mr. Noonan described Witness 2 as the closest thing he had to a sister and he talked to her multiple times about this and sought advice from her about dating, fashion and collegial matters.

147. Regarding Witness 3, Mr. Noonan wanted his point of view because Mr. Noonan was feeling anxiety about Witness 4 returning to work. Every time Witness 4 texted

- him, Mr. Noonan would tell Witness 3. Mr. Noonan asked Witness 3 if he should talk to her husband or go to HR. Witness 3 told him to keep doing what he was doing.
148. On Sunday, October 19, 2023, Witness 4 was back at South Health Campus. Mr. Noonan was dealing with a patient that required a great deal of care and had to move the patient from their stretcher to the CT couch. Witness 4 walked in, looked at Mr. Noonan and walked away. He was abandoned and he had to complete the entire move by himself.
149. Mr. Noonan testified that he was frustrated about being abandoned, that his supervisor had cut him out of the picture, and the abuse he was suffering. He then finally asked Witness 1 if he could talk to her.
150. Mr. Noonan testified that he, the director, Individual A, and Witness 1 had a meeting on October 20, 2023. Mr. Noonan gave them constructive criticism that they are not doing their job. He indicated that he returned to work 13 months ago and they had not checked in on him. He mentioned that they knew he was being abused and did nothing to help him.
151. Mr. Noonan testified that the ACMDTT is legendary for continuing competency credits and that if you do not complete them, the ACMDTT will harass and threaten to suspend you. They will fine you. Mr. Noonan went into his supervisor's office about a program he had applied to and found a picture of the team from 2019 that was posted on his supervisor's filing cabinet in plain view of everyone. His head was cut out of it.
152. Mr. Noonan raised this with Witness 1 and Individual A. Mr. Noonan also raised that he was abandoned on shifts and that they had not checked in with him in 13 months. He mentioned that he was tired of working by himself all the time and that it is difficult being one of the only males in the workplace. He told them he was being sexually harassed. Individual A replied that that is serious. Mr. Noonan got upset and said he doesn't give a Foxtrot about the money and his pay can be suspended because he had to go home.
153. At the meeting, Individual A told Mr. Noonan to stop playing the victim and Witness 1 turned away from him, crossed her legs and stopped talking to him. Mr. Noonan felt good after the meeting because he had asked for help and guidance, was vulnerable and a weight was lifted from his shoulders. Mr. Noonan then said he felt angry and upset and that is why he could not go back to work. He did not want to bring that into the workplace. Mr. Noonan clarified that right after the meeting, he felt angry and upset. When he was walking home, he felt that he had done the right thing by asking for help and being vulnerable.
154. Mr. Noonan reviewed Exhibit 6, text messages between himself and Witness 2. He confirmed the blue bubble is Witness 2 and the grey bubble is himself. Mr. Noonan confirmed that he had sent the email involving Witness 1, Witness 3 and Individual C in a text to Witness 2. Mr. Noonan testified that he originally found the email in a printed format on the 24 hour desk, the CT clerical desk which is right outside of 160188 and 160186.
155. Mr. Noonan testified that it pissed him off that they were making light of someone's situation. Mr. Noonan was thinking about making an HR complaint about

Individual C because she cut his head out of the picture and did not sign his letter of referral. He asked Witness 2 for her wisdom about the email and so he sent the email to Witness 2. Mr. Noonan was upset. Witness 2 talked him down and Mr. Noonan did not want to report Individual C because she has children and he did not want to cause any more stress in her life.

156. Mr. Noonan testified that he was joking when he texted Witness 2 and said that he procured these emails because he seduced someone on the inside. He did not seduce anyone.
157. Mr. Noonan reviewed Exhibit 7. Mr. Noonan testified that it was after Witness 4 was soliciting him for sex at the 246 Seton Passage Southeast address. Mr. Noonan asked Witness 2 for help. Mr. Noonan confirmed he recognized the picture and he was in possession of it after Witness 4 had sent it to him by text and asked him for sex. Mr. Noonan indicated that Witness 4 may have sent the picture to him in May 2023 and did not send it to him during their relationship.
158. Mr. Noonan forwarded the picture to Witness 2 because he was anxious and was being sexually harassed at work. He wanted Witness 2's insight as a woman. He did not intend to cause harm by sending the picture. Witness 2 advised Mr. Noonan he should go to administration, talk to his manager and ask for help. She advised against sending the picture to Witness 4's husband.
159. Mr. Noonan reviewed Exhibit 5, a video that appeared to be of Witness 4. Mr. Noonan received the video from Witness 4 by text message when she was soliciting Mr. Noonan for sex. Mr. Noonan testified that it was sent between January 2023 and May 2023. Mr. Noonan no longer has a copy of the video. Mr. Noonan denied receiving the video during his relationship with Witness 4.
160. Mr. Noonan admitted he forwarded the video to Witness 3 because he was asking for help from Witness 3. Witness 3 advised Mr. Noonan. Mr. Noonan did not intend to cause harm by sending the video to Witness 3. His intention was to make the workplace a healthy environment for everyone.
161. Mr. Noonan worked at South Health Campus until he lost his job in January 2024. He found a job and moved to Halifax, Nova Scotia. He received an offer of employment in June 2024. The ACMDTT checked the yes box to the questions about a complaint or disciplinary action ongoing that caused everything to be put on hold until they could talk to the ACMDTT. The job was rescinded by letter dated October 21, 2024. These documents were marked as Exhibit 12, TAB 9 of Noonan Bookmarked Documents, and Exhibit 13, TAB 12 of Noonan Book marked Documents. Mr. Noonan also received a letter dated August 27, 2024 from the Nova Scotia College indicating that he did not meet the requirements of registration. This letter was marked as Exhibit 14, TAB 11 of Noonan Bookmarked Documents.
162. Mr. Noonan testified that he had signed a lease in Nova Scotia in May or June 2024. After his job offer was rescinded, he felt lost and spent time with family. He applied for other jobs and received job offers in January 2025. He started working on February 1, 2025. He did not work for money for approximately one year.
163. Mr. Noonan testified that he regretted sending the picture to Witness 2 and the video to Witness 3. He had not intended to cause harm to Witness 4.

164. Ms. Kay sought to enter an email that appeared to be from Witness 4 to Mr. Noonan. The email outlined Witness 4's new phone number. Ms. Kay did not anticipate Witness 4's evidence that the text messages in Exhibits 10 and 11 were not from her and she did not participate in the text messaging. At the time of Witness 4's evidence, Ms. Kay did not believe it would be relevant but now believes it to be relevant. She admitted she did not put the email to Witness 4 and she should have. She suggested that Witness 4 could be recalled as a witness and the email put to her.
165. Ms. Kay argued that if the email is accurate, then Witness 4 was being untruthful about her telephone number and participating in text messages. Mr. Kully objected to the email being admitted as evidence because it was not put to Witness 4. He noted it was at page 30 of the Noonan Bookmarked Documents and so could have been put to Witness 4 yesterday.
166. The Tribunal decided to allow the document to be entered as an exhibit. The Hearing tribunal recognized that Ms. Kay could have asked Witness 4 about the document during her cross examination and the Tribunal will afford the weight to it that it deems appropriate.
167. Mr. Kully did not want to recall Witness 4 as a witness and neither did Ms. Kay. The email was entered as Exhibit 15, Page 30 of Noonan Bookmarked Documents.
168. Mr. Noonan testified that Exhibit 15 was a July 21, 2022 email message from Witness 4 that she had a new number, 825-525-0215. After receiving the message, Mr. Noonan began texting her at that number. Mr. Noonan did not reply to the email, he texted Witness 4 at the number.

### **Cross Examination by Mr. Kully**

169. Mr. Kully asked Mr. Noonan about the texts messages at Exhibit 10 and confirmed the blue texts are Mr. Noonan. Mr. Noonan confirmed he texted "If I didn't email you, would you have texted me?" Mr. Noonan testified that he was communicating with Witness 4 and she was not responding to him. They were still dating at the time. Mr. Noonan confirmed he emailed Witness 4 first.
170. Mr. Noonan confirmed he was not working at South Health Campus at the end of October 2023 because he was placed on administrative leave at that time. Exhibit 3 was reviewed with Mr. Noonan. Mr. Noonan was aware sometime in October or November of 2023 about concerns he had sent intimate images to Witness 2. Mr. Noonan confirmed he sent the video to Witness 3 on December 13, 2023 while they were texting.
171. Mr. Noonan denied asking Witness 3 for advice about Witness 4 returning to the workplace and indicated he was asking Witness 3 what to do with her. Mr. Noonan was curious if the video was actually Witness 4 and whether he should go to her husband. Texting the video to Witness 3 had nothing to do with the workplace. He then stated he was asking for advice about the workplace. Seven months after Mr. Noonan received texts from Witness 4, he sent the video to Witness 3. At that time, Mr. Noonan was aware he was under investigation in the workplace about sending the image to Witness 2. Mr. Noonan indicated he was vulnerable and

asking for help. He confirmed that the message "Guess who. Who do you think that is?" was asking for advice.

172. Mr. Noonan reviewed Exhibit 11 that says, "Texting with cunt." Mr. Noonan confirmed that the name of Witness 4 in his phone was Cunt Face.

173. Mr. Noonan confirmed that September 2, 2022 was the first time Witness 4 texted him after they broke up. Mr. Noonan confirmed that there are no dates on the screenshots of messages he took, only times. He testified that he took a screenshot of the text messages within 24 hours after each one was messaged to him. Mr. Noonan testified that from September 2022 to March 2023, he was screenshotting texts and sharing them with friends who supported him.

174. Mr. Noonan testified that he didn't think anything of sending a nude photo to a co-worker because breasts are breasts in healthcare and it doesn't matter. Mr. Noonan indicated he was getting tired of it and was asking Witness 2 for help. At the time, Mr. Noonan had no idea it was inappropriate for him to share the message with the photo. He did not know the legal ramifications of sending the photo.

175. Mr. Noonan testified that if he found stuff laying around, he would shred it. He explained that you secure it, collect it and protect it which means that if you find anything laying around, you put it in the shredding bin. The image he texted Witness 2 in Exhibit 6 angered him because Individual C was not doing her job and was making light of a colleague who was going through a really hard time. Individual C did not allow Mr. Noonan to fulfill his CCP requirements because she did not sign a letter of referral. Mr. Noonan indicated the email was not confidential because it did not have information about patients in it. Mr. Noonan's plan was to write up Individual C to HR with a dossier of documents but Witness 2 talked him out of it because Individual C has three children and a tough marriage.

176. Mr. Noonan reviewed Exhibit 14, the letter from the Credentials Committee of the Nova Scotia College indicating Mr. Noonan did not meet good conduct criteria. Mr. Noonan admitted he declared he was under investigation by the ACMDTT, that nothing had been proven yet. He told them what happened. Mr. Noonan indicated that he did not think the ACMDTT said anything to the Nova Scotia College.

177. Mr. Noonan reviewed Exhibit 12 and the box that was checked was "Is there any other information as a result of complaints or criminal, disciplinary, or other proceedings against the worker in any jurisdiction, whether in or outside of Canada, relating to the worker's competency, conduct or character?" He agreed that the reason he was being investigated was because he was sending images to other co-workers asking for help.

178. The Tribunal opened the hearing to the public and it remained open for the rest of the hearing.

## **I. CLOSING SUBMISSIONS**

### **The Complaints Director**

179. Mr. Kully reviewed that the task of the hearing tribunal. He reviewed the definition of unprofessional conduct set out in section 1(1)(pp) of the HPA and argued that the definitions go beyond the provision of professional services because

they are very broad. The Complaints Director has the burden of proving the facts occurred, on a balance of probabilities. The Complaints Director submitted that the allegations have been proven on a balance of probabilities.

180. Mr. Kully reviewed the evidence for the Tribunal. He submitted that there were several things that are not relevant to the assessment of whether the allegations are proven by the Complaints Director. He indicated that the relationship between Witness 4 and Mr. Noonan including when it started and ended and any moral judgment are not relevant. He explained that whether Witness 4 continued to send messages or images to Mr. Noonan after the relationship ended is irrelevant. Mr. Kully indicated that the Tribunal is dealing with the allegations, not Witness 4's actions.

181. Mr. Kully argued that the fact that Mr. Noonan sent the images, distributed the images to a third party without consent is the issue. The intention behind sending the images is irrelevant to whether Mr. Noonan engaged in the actions and they rise to the level of unprofessional conduct.

182. Mr. Kully argued that the impact the conduct had on Mr. Noonan's career is also irrelevant to whether the allegations are factually proven and whether they amount to unprofessional conduct. This could be relevant to sanctions.

183. Mr. Kully presented that Mr. Noonan admitted to each of the three allegations. He admitted he sent the photo to Witness 2. He admitted he sent the email from the desk that was of Individual C to Witness 2 and he admitted he sent the video, the GIF, to Witness 3. Mr. Kully also indicated that evidence proves each of the allegations.

184. Mr. Kully explained that the evidence established that the texts messages at Exhibit 7 are between Witness 2 and Mr. Noonan from August 2023. Witness 2 was a co-worker of Mr. Noonan in August 2023. Mr. Noonan sent an image of the texts that he was allegedly receiving from Witness 4 that included a photo that shows the nude breasts of a woman. Witness 2 testified that it was clear to her that Mr. Noonan was referring to Witness 4 when he sent the image.

185. Witness 4 testified that she is the woman in the photo. She testified she never gave consent to Mr. Noonan to share the image and that she only became aware of the distribution in October or November of 2023.

186. Witness 1 testified she became aware of the disclosure, saw the image and knew it was Witness 4. An investigation was completed and it was determined Mr. Noonan sent the image to Witness 2 without Witness 4's consent. Mr. Noonan was terminated.

187. Mr. Kully explained the image is clearly an intimate image and that a photo with nudity is one that must be treated with discretion and there is an expectation of privacy. There was no consent to share the intimate image with a co-worker.

188. Regarding Allegation 2, Mr. Noonan acknowledged he texted an image of the email relating to Witness 3 between Individual C and Witness 1 to Witness 2. The image is at Exhibit 6 is a screenshot of texts between her and Mr. Noonan from October 14, 2023. At that time, Witness 2 was Mr. Noonan's co-worker.



189. Mr. Kully explained that Witness 2 did not think it was okay. She was worried about how Mr. Noonan acquired the email and that anyone could access her email and that made her feel insecure. She felt dirty getting the image. She felt that Mr. Noonan should not have sent the image and the email between two people that was not addressed to Mr. Noonan. Witness 2 felt it was an invasion of privacy.
190. Witness 1 testified that Mr. Noonan should not have had access to that email because it was a private email communication and it was improper for him to have information from a supervisor about another employee, under performance management and coaching.
191. Witness 1 testified that she did not send the email to Mr. Noonan, Individual C told her she did not send it to Mr. Noonan. It should not have been distributed. Mr. Kully argued that there was no knowledge or consent for Mr. Noonan to have access to the email and for it to be distributed further. Witness 1 indicated that Mr. Noonan's actions were a breach of AHS' privacy policy and the circulation of it eroded trust in the leadership.
192. Mr. Noonan testified that he was upset that he found the email sitting out and recognized the importance of it. Mr. Noonan admitted he took the email and sent it to Witness 2 without any supervisor knowledge or consent.
193. Regarding Allegation 3, Mr. Kully referred to Exhibit 8, the texts between Witness 3 and Mr. Noonan. Witness 3 confirmed he received the image with the play button from Mr. Noonan. Witness 3 texted Mr. Noonan and asked if it was Witness 4. Mr. Kully argued that it was clearly understood that the image was of Witness 4 in lingerie. Mr. Noonan admitted he texted the video or GIF to Witness 3 on December 13, 2023. Exhibit 5 is the video that Witness 4 indicated she sent to Mr. Noonan in 2020 in the context of their relationship.
194. Mr. Kully argued that it is irrelevant whether the video was sent in 2020 or 2023. Witness 4 said she did not give permission to Mr. Noonan to distribute the video to anyone else. Mr. Kully submitted that the video is clearly an intimate video that was taken with the expectation of privacy.
195. Witness 4 indicated she was working at South Health Campus on December 13 and Witness 3 was also working at South Health Campus on December 13. Mr. Noonan was on administrative leave at the time but still employed at South Health Campus. Mr. Kully argued that the image at Exhibit 8, the texts with Witness 3 and the video in Exhibit 5 are the same. Mr. Noonan acknowledged it. Mr. Kully argued that the thumbnail of the video shows effectively the same image as the video. Witness 3 thought it was a video of Witness 4 and there is a play button with a timer. Witness 4 testified she had sent that video to Mr. Noonan.
196. Mr. Kully discussed the timing of sending the video. Mr. Noonan was on administrative leave at the time he sent it to Witness 3. Mr. Noonan had received the video well before he sent it to Witness 3. Mr. Noonan was aware he was under investigation for sending the previous photo of Witness 4 to Witness 2 and was aware of the concerns related to distribution of an image from Witness 4. Mr. Kully submitted that Mr. Noonan was not asking Witness 3 for advice on the workplace or how to deal with Witness 4 or stop getting messages. He sent the video for no good

reason. Mr. Noonan had already stopped receiving messages and Witness 4 had been in the workplace for months.

197. Mr. Kully submitted there is a common theme in the allegations of a breach of privacy and confidentiality. Mr. Noonan disclosed an email and images without the consent of the person who had originally wrote the email or sent it to him. He shared these with his co-workers for no good reason. Mr. Kully submitted that it is not believable that Mr. Noonan was looking for advice in the workplace.

198. Mr. Kully reviewed the evidence that Mr. Noonan indicated Witness 4 had stopped communicating with him in May 2023. There's no reason to ask for advice in August 2023 or December 2023. There's no reason to ask for advice about a confidential email that was not about Mr. Noonan.

199. Mr. Kully argued that sharing images without consent, without reason, is a significant concern and demonstrates poor judgement, a lack of integrity and harms the reputation of the profession. There is no professional purpose for the disclosure, no justification and no legitimate reason. They were deliberate acts that invaded another person's privacy and caused foreseeable embarrassment and harm. He acknowledged Mr. Noonan testified that he did not intend to cause harm but it is obvious the sharing of a naked image of someone and the sharing of a video of that individual without consent are going to cause embarrassment and harm. Mr. Noonan's lack of foresight is not a reason to not find him guilty of unprofessional conduct. There was a clear expectation of privacy given the state of dress in the images and the context of a relationship.

200. Mr. Kully argued that Witness 4 put her trust in Mr. Noonan and he violated that trust by sharing the images with others. It is something that we would know would be embarrassing. Witness 4 testified it was hard to go to work and face her co-workers. She was mortified and embarrassed. The images were intended for Mr. Noonan in a private context and were distributed more widely than Witness 4 consented to or anticipated. The effect of the distribution is a violation of Witness 4's privacy and is embarrassing, humiliating, degrading and harmful.

201. Mr. Kully reviewed the *Criminal Code* and that the *Criminal Code* criminalizes distribution of intimate images without consent. It is often called revenge porn as it arises in the context of a breakdown of a relationship. Mr. Kully submitted that the intimate image in Exhibit 7 meets the definition of an intimate image under the *Criminal Code*. Witness 4 was nude, it depicted her breasts. There were circumstances that gave rise to privacy at the time it was taken and sent, and that privacy was retained. Mr. Noonan did not have consent or right to send it to anyone else.

202. Mr. Kully argued that Mr. Noonan's conduct is not off-duty conduct because it had a significant impact on the workplace and did not take place in private. The conduct was connected to Mr. Noonan's co-workers in his place of work and the practice of the profession. It impacted Mr. Noonan's ability to work with his colleagues and it impacted the safe working environment that should have been there for patients.

203. Mr. Kully argued that the evidence of Witness 4, Witness 2 and Witness 1 about the impact on the workplace should be considered. It is all connected to Mr.

Noonan's ability to work in the workplace and to patients and the professional services provided by Mr. Noonan. This impacts patients and prevents patients from receiving the best care. The conduct was connected to the workplace and connected to patient care.

204. Mr. Kully submitted that members of a profession, including members of the ACMDTT, are trusted with very sensitive and private information including patient information. They routinely handle that sensitive, personal and often intimate information and images as part of their professional duties. The public must have confidence that technologists will treat such material and all private information with the highest level of discretion and trust. Distributing an intimate image of a colleague and a private email undermines the trust and erodes confidence in that professional's ability to safeguard privacy, maintain ethical standards and ensure that those who handle sensitive information are worthy of the privilege of self-regulation. Mr. Noonan's conduct does not reflect a private lapse. It reflects behaviour that is incompatible with ethical expectations of a self-regulated professional. It damages the individual's credibility and the reputation of the profession as whole.

205. Mr. Kully submitted that the conduct is a breach of numerous Standards of Practice and Code of Ethics and reviewed them. Mr. Kully argued that Mr. Noonan's conduct is very serious and is at the serious end of the spectrum of unprofessional conduct. It is very serious to disclose intimate images that were embarrassing and mortifying and have had significant impact on the dignity of Mr. Noonan's co-worker, Witness 4.

### **The Former Registrant**

206. Ms. Kay explained Mr. Noonan admitted that he sent the email in question and the picture in question. He sent the video or GIF to Witness 3. Witness 3's evidence is that he did not view the video but Mr. Noonan confirmed he sent it. The question before the Tribunal is whether the acts constitute unprofessional conduct.

207. Ms. Kay submitted that Mr. Noonan and Witness 4 had been friends for some years and lovers for a couple of years after that. There was a messy breakup after which they worked in separate locations for approximately one year. Mr. Noonan testified that they broke up in July 2022. He did not hear from her for about two months. She began to text him in September 2022 and continued to do so until May 2023, including texts of a sexual nature and graphic sexual conversation.

208. Ms. Kay referred to Exhibit 11 which contain detailed office gossip and words of an explicit sexual nature. Mr. Noonan testified that he received the texts from September 2022 to May 2023 and did not respond to them. Witness 4 denied sending the texts. Ms. Kay submitted that Witness 4 either sent the texts or she did not. Ms. Kay questioned whether Witness 4 may have been lying under oath. Ms. Kay indicated that Mr. Kully did not ask Mr. Noonan one question about whether he actually received the texts or somehow fabricated the texts. Mr. Kully did not challenge Mr. Noonan except about the dates.

209. Witness 2 and Witness 3 confirmed that Mr. Noonan talked to them numerous times over that period about Witness 4 texting him repeatedly. This was at a time when there was not an investigation going on. Ms. Kay argued that there was no

- possibility in Mr. Noonan's mind that he was going to have to prove that he was receiving the texts at the time he was seeking advice from Witness 2 and Witness 3.
210. Ms. Kay submitted that the Tribunal must accept Mr. Noonan's testimony that he continued to receive unsolicited texts, including texts of a sexual nature, from Witness 4 for months after their sexual relationship ended.
211. Ms. Kay argued that context is important. Mr. Noonan admitted he sent the picture and video to Witness 2 and Witness 3 because they were his confidants and he often went to them for advice. Mr. Noonan's testimony was that he sent the picture and video only for advice about what to do and not with the intention of harming Witness 4.
212. Ms. Kay indicated that Mr. Kully did not question Mr. Noonan about whether he knew the conduct would be harmful, if he was intending to harm or if he meant to harm Witness 4. Ms. Kay indicated there was no evidence that it was Mr. Noonan's intention to harm Witness 4.
213. Ms. Kay raised the context of the workplace and Mr. Noonan's perceived lack of support from his administration. Mr. Noonan was upset with his supervisor, Individual C, for cutting his face out of group photo in plain site of other employees in her cubicle and because he was seeking her assistance to write a letter because of an ACMDTT requirement.
214. Ms. Kay submitted there is no evidence Mr. Noonan found the email between Witness 1 and Individual C anywhere but on that desk. Typically, Mr. Noonan would discard and destroy such a document but he was angered by the email. He could see Individual C was making light of someone he viewed as a friend who had been having a hard time. Mr. Noonan sent this to Witness 2 for advice and she talked him down from filing a complaint about Individual C.
215. Ms. Kay submitted Mr. Noonan went to his administration about some of the concerns he was having about his face being cut out of one photo and the treatment he was receiving. He was told to stop playing the victim. He was told it seemed like high school stuff with respect to the photo. Mr. Noonan was angry and first but then felt relieved he had asked for help.
216. Ms. Kay submitted that Mr. Noonan testified that he did not intend to cause harm to anyone and he did not intend to cause harm to Witness 4. He has admitted the acts. The images and email were not widely distributed to other people. They were distributed to known confidants and long-term confidants to seek advice and feedback.
217. Ms. Kay raised the continuity of the texts from Witness 4 which are relevant to Witness 4's credibility. In her complaint she stated that Mr. Noonan terrorized her since she started working at South Health Campus in 2016. Ms. Kay submitted that the truth is that they were friends and co-workers for about four years. They were lovers for about two years. They had a messy breakup and then worked in separate places for one year. Witness 4's testimony directly contradicts her complaint.
218. Mr. Kay reviewed the evidence of Witness 4. Witness 4 denied the texts were from her. The email before the Tribunal contradicts her testimony about the

telephone number. Ms. Kay knows the email was not put to Witness 4. Ms. Kay submitted that the only alternative to Witness 4 sending the long series of texts with detailed information from the workplace and sexually explicit notes or texts to Mr. Noonan is that Mr. Noonan somehow fabricated the whole thing, none of which was put to Mr. Noonan. Ms. Kay submitted the repeated texts are relevant to context and the credibility of Witness 4.

219. Ms. Kay agreed with Mr. Kully that the timing of the picture and video that he received from Witness 4 does not change whether consent to distribute was given to Mr. Noonan by Witness 4. Ms. Kay argued it changes the context and also the credibility of Witness 4.

220. Ms. Kay argued that there is no evidence that there was any risk to patient safety or care in this case. She argued it is a leap to make that patient safety and a negative effect on patient safety because of the effect on the workplace.

221. Ms. Kay argued you can surmise that a breakdown in the workplace could lead to a breakdown or breach of patient safety or care but it was not proven or even alleged in this case. Ms. Kay argued that the acts themselves are not unprofessional conduct.

### **Complaints Director's Rebuttal Submissions**

222. Mr. Kully argued that credibility is not an all or nothing approach as the Tribunal can find somebody credible on some points and not credible on other points. Mr. Kully submitted that if the Tribunal does not believe Witness 4 did not send the texts, the Tribunal does not need to discount all her evidence because her other evidence can be weighed and she can be found credible on other points. Mr. Kully stressed that there is no dispute that she sent the images to Mr. Noonan, the images are of her, and Mr. Noonan sent them to others.

223. Mr. Kully submitted that with respect to Witness 4's statements about how the distribution impacted her, there is no counterevidence and they should accept Witness 4's statements as credible.

224. Mr. Kully submitted that Mr. Noonan could have sought advice without sending the images. He reminded the Tribunal that Mr. Noonan's evidence is that the harassment from Witness 4 stopped in May and the images were sent in August and December.

225. Mr. Kully raised that Witness 1 denied that Mr. Noonan was told to stop playing the victim. Mr. Kully submitted that there was evidence about the impact on the workplace and that the Tribunal can make the conclusion as to what impact that might have on a patient or potential patient safety and use that when assessing if unprofessional conduct was proven.

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

226. The Tribunal has carefully considered the evidence of each witness, the documents entered as exhibits and the oral submissions of the Complaints Director and Mr. Noonan.

227. The Tribunal acknowledges that the Complaints Director has the onus in this hearing of proving the allegations. The Tribunal considered all the evidence and applied the standard of proof of balance of probabilities.

228. The Tribunal clarified that some of the evidence at the hearing was irrelevant or had very little relevance. The Tribunal placed no weight on the circumstances of the relationship between Mr. Noonan and Witness 4 and what was going on in their personal lives at the time and after the relationship had ended.

229. The Tribunal found that Allegation 1 was factually proven and amounted to unprofessional conduct as defined in section (1)(1)(pp)(ii). The Tribunal determined that Mr. Noonan's conduct breached the Code of Ethics, Principles 2b, 2f, and 3a and Standards of Practice 2.4(a).

230. The Tribunal found that Allegation 2 was factually proven and amounted to unprofessional conduct as defined in section (1)(1)(pp)(ii). The Tribunal determined that Mr. Noonan's conduct breached the Code of Ethics Principles 2b, 2f, 3a, 3b and Standards of Practice 2.1(b), 2.1(e), 2.4(a), 2.4(f), 3.1(c).

231. The Tribunal found that Allegation 3 was factually proven and amounted to unprofessional conduct as defined in section (1)(1)(pp)(ii). The Tribunal determined that Mr. Noonan's conduct breached the Code of Ethics Principles 2b, 2f, and 3a and Standards of Practice 2.4(a).

232. The Tribunal found that Allegations 1, 2 and 3 constitute unprofessional because Mr. Noonan's conduct breached the Code of Ethics and Standards of Practice [section 1(1)(pp)(ii) of the HPA].

## **K. FINDINGS and REASONS of the HEARING TRIBUNAL**

### **The Email, at Exhibit 15**

233. During her cross examination of Mr. Noonan, Ms. Kay asked to mark a July 21, 2022 email as an exhibit. The email appeared to be from Witness 4 to Mr. Noonan that outlined Witness 4's new phone number. Ms. Kay explained she did not anticipate Witness 4's evidence that the text messages in Exhibits 10 and 11 were not from her and that she did not participate in the text messaging. At the time Witness 4 gave her evidence, Ms. Kay did not believe it would be relevant but now believed it to be relevant. Ms. Kay acknowledged she did not put the email to Witness 4 and she should have. She suggested that Witness 4 could be recalled as a witness and the email put to her. Ms. Kay argued that if the email is accurate, then Witness 4 was being untruthful about her telephone number and participating in text messages.

234. Mr. Kully objected to the email being admitted as evidence because it was not put to Witness 4. He noted it was at page 30 of the Noonan Bookmarked Documents and so could have been put to Witness 4 while she was being questioned. During the hearing, the Tribunal decided to enter the email as an exhibit, Exhibit 15, Page 30 of the Noonan Bookmarked Documents, and to determine an appropriate weight to give it.

235. The Tribunal recognized the email at Exhibit 15 was available and in Mr. Noonan's Bookmarked Documents during the time Ms. Kay cross-examined Witness

4. Witness 4 had already given evidence that she did not send the text messages at Exhibits 10 and 11 to Mr. Noonan. Ms. Kay intended to use Exhibit 15 to challenge the credibility of Witness 4's evidence that she did not send the text messages to Mr. Noonan and therefore Ms. Kay should have asked Witness 4 about it during her cross examination so Witness 4 could provide an answer. The Tribunal afforded Ms. Kay the opportunity to make an application to the Tribunal to recall Witness 4 as a witness so as to put Exhibit 15 to her. Ms. Kay declined to make an application. The Tribunal will give the email at Exhibit 15 very little weight.

### **Assessment of the Credibility and Reliability of the Witnesses**

236. The parties disagree about the relevancy of certain evidence of Witness 4 and Mr. Noonan and the role the evidence plays in the assessment of whether Mr. Noonan's conduct is unprofessional conduct. Mr. Kully explained the evidence is not relevant because Mr. Noonan admitted the conduct in each of the allegations and the evidence proves the conduct. Ms. Kay explained credibility is relevant because it sets the context for Mr. Noonan's factual admissions and explains why Mr. Noonan's conduct is not unprofessional conduct. She also explained it is relevant for the credibility of Witness 4.

237. The Tribunal understands that a credibility assessment is not an all or nothing assessment. This means that the Tribunal may accept some of a witness' evidence and not accept other pieces of their evidence. Mr. Kully challenged the credibility of Mr. Noonan and his evidence that he was seeking advice about the image and video. Ms. Kay challenged the credibility of Witness 4 and her evidence about sending text messages.

238. The Tribunal considered that certain facts in this case were not in dispute because Mr. Noonan agreed to them. Specifically, Mr. Noonan agreed to the facts set out in Allegations 1, 2 and 3 but disagreed that they rose to the level of unprofessional conduct.

239. Also, Mr. Noonan and Witness 1 did not agree on certain facts.

240. The Tribunal recognized that there were inconsistencies with the evidence of Witness 4 and Mr. Noonan, some of which were:

- In her signed complaint, Witness 4 wrote that Mr. Noonan terrorized her since she started working at South Health Campus in 2016. During her evidence at the hearing, she acknowledged they were friends when she first started at South Health Campus and became lovers, which is not in accord with her complaint and supports Mr. Noonan's account.
- Witness 4 denied sending texts to Mr. Noonan from September 2022 to May 2023.
- Mr. Noonan's evidence is that he received the texts from Witness 4 from September 2022 to May 2023.
- Witness 4's evidence is that she sent the image to Mr. Noonan in 2020 during their relationship and the video during their relationship in 2020.
- Mr. Noonan's evidence is that Witness 4 sent the image to him in 2023 and the video in 2023.
- Witness 4 and Mr. Noonan disagreed about the status of Witness 4's marriage at various times.

241. The Tribunal also considered the evidence of Witness 1 and Mr. Noonan and that they did not agree about certain events and comments at the October 20, 2023 meeting, a summary of which is outlined below:

- Mr. Noonan's evidence is that he told Witness 1 he was being sexually harassed.
- Witness 1's evidence is that Mr. Noonan did not tell her he was being sexually harassed but did tell her that he was being targeted because he did not want to sleep with the women.
- Mr. Noonan's evidence is that he was told to stop playing the victim.
- Witness 1's evidence is that Mr. Noonan was not told to stop playing the victim.

242. The Tribunal recognized the difference between Witness 4's letter of complaint and her sworn evidence at the hearing. We accept Witness 4 clarified the letter of complaint in her testimony at the hearing. In her oral evidence, Witness 4 recognized that the letter of complaint was false in certain ways and that she and Mr. Noonan were friends for about four years and then in a sexual relationship for about two years.

243. The Tribunal also recognized that the disputed information set out in Witness 4's letter of complaint did not form an allegation. The Allegations set out in the Amended Notice of Hearing do not allege Mr. Noonan engaged in inappropriate conduct in 2016 or at all prior to August 2, 2023. Witness 4 and Mr. Noonan agreed Witness 4 had sent the image and video to Mr. Noonan. The dates on which she sent these to him is disputed.

244. Ms. Kay took issue with the testimony of Witness 4 that she had not sent the text messages to Mr. Noonan from September 2022 to May 2023. Ms. Kay did not put the July 22, 2022 email with the phone number in it to Witness 4 to allow her to comment and respond to it. Mr. Noonan testified that Witness 4 sent the text messages and email to him. The Tribunal also recognized that Mr. Kully did not ask Mr. Noonan if he had fabricated the text messages in question.

245. The Tribunal heard the evidence about the messy relationship between Witness 4 and Mr. Noonan that involved relationships with other people. The Tribunal also recognized it would have taken a great deal of foresight and work for Mr. Noonan to fabricate the text messages from Witness 4. Both Ms. Kay and Mr. Kully did not challenge the credibility of the other party's witness during cross examination on points about the text messages and her phone number.

246. Whether Mr. Noonan continued to receive text messages from Witness 4 between September 2022 and May 2023 does not impact the factual allegations, the evidence at the hearing supporting the factual allegations and Mr. Noonan's admissions of the allegations. When Mr. Noonan received the image and the video is irrelevant to the factual allegations. If the image and video were sent during their relationship from 2020 to 2022, they were sent in the context of an intimate relationship. If the image and video were sent after the relationship ended, they were sent in the context of renewing their intimate relationship. There was no evidence that Witness 4 consented to the distribution of the image and video or that she waived her expectation of privacy.

247. The Tribunal recognized that external evidence from Witness 2 and Witness 3 supports that Mr. Noonan continued to receive texts from Witness 4 in 2023. He



valued Witness 2 and Witness 3 as friends and confidants. Mr. Noonan relied on the text messages from Witness 4 to support his defence that he sent the image to Witness 2 on August 2, 2023 because he was worried about working with Witness 4 and was seeking Witness 2's advice. Mr. Noonan relied on the text messages from Witness 4 to support his defence that he sent the video to Witness 3 on December 13, 2023 and was seeking his advice. In any scenario, the texts from Witness 4 stopped after May 2023.

248. There is no evidence from Mr. Noonan or Witness 4 that Witness 4 attempted communication with Mr. Noonan after May 2023. The evidence of Witness 3 was that Mr. Noonan continued to tell him that he was receiving messages from Witness 4 after May 2023. The evidence of Witness 2 was that Mr. Noonan continued to receive messages from Witness 4 after May 2023.

249. The evidence from Witness 2 was that after Witness 4 returned to South Health Campus in 2023, she avoided Mr. Noonan and took steps to ensure their paths would not cross.

250. The date Mr. Noonan received the texts, the image and video are not part of the Allegations outlined in the Amended Notice of Hearing. Mr. Noonan admitted he did not have consent from Witness 4 to distribute the image or the video. This fact is not in dispute. This fact also does not change Mr. Noonan's obligations as set out in the Code of Ethics and Standards of Practice.

251. The Tribunal was unable to accept the entirety of the evidence of Witness 4 and Mr. Noonan. The Tribunal has referenced in its reasons where, if at all, this evidence impacts the assessment of unprofessional conduct.

### **Not off-duty conduct**

252. The Tribunal considered whether Mr. Noonan's conduct was off-duty conduct. The Tribunal finds Mr. Noonan's conduct was not off-duty conduct. His conduct had a significant impact on the workplace and did not take place in private. The conduct was connected to Mr. Noonan and Mr. Noonan's co-workers who are other healthcare professionals, in their place of work and the practice of their profession. He was texting with his co-workers at work and during off work times. He was texting about another co-worker. He was sharing information about a co-worker, his manager and supervisor that he found in the workplace. Mr. Noonan's conduct impacted his ability to work with his colleagues.

253. On August 2, 2023 and December 13, 2023, Mr. Noonan, Witness 4, Witness 2 and Witness 3 worked at South Health Campus. Mr. Noonan was on leave but he was still an employee of South Health Campus who had not been terminated. The Tribunal accepted the evidence of Witness 4 and Witness 2 that Mr. Noonan's conduct impacted them in the workplace, caused them to mistrust others and with Witness 4, caused her embarrassment and paranoia. It impacted her professional relationship with Witness 3. Mr. Noonan's conduct was disruptive. He was focussed on Witness 4 for months after she stopped texting him which would also have an impact on his work and his relationships with his co-workers and fellow healthcare professionals.

254. Mr. Noonan violated the trust and privacy of Witness 4. Witness 4 is a colleague and fellow healthcare professional, not a patient. The Tribunal finds Mr. Noonan's actions of distributing the image and video are relevant to his practice of the profession. Patients place trust in their healthcare professional while receiving healthcare services. Patients must be secure in their trust that their healthcare professional respects their privacy and protects their privacy.
255. Mr. Noonan's conduct violated the dignity and privacy of Witness 4 and Witness 2. His failure to have appropriate boundaries in his relationship or former relationship and in his workplace friendships display poor judgment, a lack of respect toward private information and reflects poorly on the entire profession.
256. The Tribunal recognized there was no evidence of patient harm because of Mr. Noonan's conduct; however, healthcare professionals working with a disruptive individual, who mistrust their colleagues and are embarrassed and paranoid, may be impacted.
257. Regarding Allegation 2, Mr. Noonan found the email at the workplace. It was related to his co-worker and friend and included communications between Mr. Noonan's supervisor and manager. Mr. Noonan shared this email with his friend and co-worker who was being referenced in the email. This conduct is not off-duty conduct because it was directly related to the workplace and his professional status as a registrant of the ACMDTT.

### **ALLEGATION 1**

258. Allegation 1 is that on or about August 2, 2023, Mr. Noonan distributed an intimate image of Witness 4, a former colleague at South Health Campus to a different colleague at South Health Campus without Witness 4's consent.
259. The Tribunal relied on the definition of intimate image presented by the Complaints Director and specifically that an intimate image means a visual recording of a person in which the person is nude, is exposing their genital organs or anal region or breasts or is engaged in explicit sexual activity.
260. The image referenced in Allegation 1 is a photo of the upper half of a naked woman lying on a bed. It appears to be a selfie. The woman's breasts are exposed and half of the woman's lower face is visible. This image was an intimate image.
261. The Tribunal considered the evidence of Mr. Noonan at the hearing and his admission that he distributed an intimate image of Witness 4 to Witness 2 without Witness 4's consent.
262. The evidence at the hearing is that Witness 4 sent the intimate image by text to Mr. Noonan during the course of their sexual relationship in 2020. Mr. Noonan's evidence is that Witness 4 sent the intimate image by text to him in May 2023. The testimony of Mr. Noonan and Witness 4 were consistent that Witness 4 did not consent to the distribution of the image. As set out above, when Witness 4 sent the image to Mr. Noonan is not relevant to the factual admissions that the intimate image was texted to him from Witness 4 and she did not provide consent to him to distribute the image. In her testimony, Witness 2 confirmed she received the intimate image from Mr. Noonan by text on August 2, 2023, was aware it was of Witness 4 and was shocked.

263. Mr. Noonan's evidence is that he regretted sending the intimate image of Witness 4 to Witness 2 and he was not aware it was inappropriate to share it.
264. The Tribunal finds that Allegation 1 is proven on a balance and probabilities.
265. Regarding the second part of the analysis and whether the conduct is unprofessional conduct, the Tribunal considered the submissions of Ms. Kay. Ms. Kay submitted that the context of Mr. Noonan asking for advice, being unheard in the workplace and being sexually harassed is part of the analysis of whether the conduct is serious enough or rises to the level of unprofessional conduct.
266. Mr. Noonan sent the intimate image to Witness 2 on August 2, 2023. Mr. Noonan received the email months or years before he sent it to Witness 2. At the latest, Witness 4 had stopped texting and communicating with Mr. Noonan in May 2023. Mr. Noonan did not feel supported or heard in the workplace by his manager and director. He felt targeted by Individual C and others.
267. The Tribunal considered Mr. Noonan's extensive experience as a registrant, his academic endeavours and his time with the Navy. Mr. Noonan is not a new registrant or without life experiences. It was not necessary for Mr. Noonan to send the actual image to Witness 2 to get advice from her.
268. The evidence of Mr. Noonan's reasons for sending the intimate image of Witness 4 to Witness 2 are recognized. They do not justify or negate his conduct and his obligations as a registrant to abide by the Code of Ethics, the Standards of Practice and the HPA. He did not have consent from Witness 4 to distribute the image. He did not protect the privacy of Witness 4 and took steps to embarrass and hurt her in the workplace. He displayed poor judgement and a lack of personal knowledge of the impact his own behaviour of sending an intimate image without consent could have on Witness 4, his co-workers and the workplace.
269. The Tribunal determined that Mr. Noonan's conduct in Allegation 1 is conduct that contravened the HPA, the Code of Ethics and Standards of Practice. Mr. Noonan is an experienced registrant and should know he is governed by the HPA, Code of Ethics and Standards of Practice. Mr. Noonan testified about the about the ACMDTT and their CCP.

### **Code of Ethics and Standards of Practice**

270. The Tribunal found that the following Principles of the Code of Ethics were breached by Mr. Noonan:

#### Principle 2 – Responsibility to the Profession

- b. Honesty – A regulated member demonstrates honesty and truthfulness in their professional relationships with colleagues, patients and patient representatives.
- f. Integrity and respect – A regulated member displays integrity and respect in all interactions with other healthcare professionals.

#### Principle 3 – Responsibility to Oneself

- a. Personal conduct – A regulated member maintains a level of personal conduct that upholds the trust of the public and the integrity of the profession.

271. The Tribunal found that the following Standards of Practice and indicators were breached by Mr. Noonan:

Standard of Practice 2.4 Professional Boundaries

A regulated member of the Alberta College of Medical Diagnostic and Therapeutic Technologists maintains clear professional boundaries in relationships with patients, families and colleagues.

a. Adhere to the Code of Ethics of the ACMDTT.

272. Sending the image of Witness 4, a colleague, to Witness 2, another colleague, does not demonstrate truthfulness and honesty in his professional relationships with colleagues. Ultimately, Mr. Noonan could have asked Witness 2 for advice without sending the image to her.

273. The Tribunal determined that Mr. Noonan's conduct breached Principle 2f of the Code of Ethics. Principle 2f outlines the responsibility of a registrant to display integrity and respect in all interactions with other healthcare professionals. Witness 2 did not ask to receive the image in question and shows a lack of respect for Witness 4 and Witness 2. It also shows a lack of understanding of consent.

274. The Tribunal determined that Mr. Noonan's conduct breached Principle 3a of the Code of Ethics. Principle 3a outlines the responsibility of Mr. Noonan to maintain a level of personal conduct that upholds the trust of the public and integrity of the profession. Witness 4 and Witness 2 were negatively impacted by Mr. Noonan's conduct in the workplace. While there was no evidence of patient harm as a result of Mr. Noonan's conduct, it would or could be disruptive in the workplace and create mistrust amongst co-workers who handle sensitive patient information and encounters and rely on their co-workers.

275. The Tribunal determined that Mr. Noonan's conduct breached Standards of Practice, 2.1(h), and 2.4(a). Standard 2.1 requires a registrant to adhere to the legislative requirements governing the registrant's specialty and the ACMDTT's Code of Ethics and Standards of Practice. Standard 2.1(h) is that a registrant will engage in conduct that does not harm the integrity of the profession.

276. The Tribunal found that the breaches of the Code of Ethics and Standards of Practice were serious and constituted unprofessional conduct under section 1(1)(pp)(ii) of the HPA. Mr. Noonan was naïve about the impact of sending the image to Witness 2 without consent or was blind to the fact that consequences could result because of his conduct.

## **ALLEGATION 2**

277. Allegation 2 is that on or about October 14, 2023, Mr. Noonan disclosed a supervisor's, Individual C, private email correspondence that he improperly possessed to a colleague at South Health Campus without the supervisor's knowledge or consent.

278. The Tribunal considered the evidence of Mr. Noonan at the hearing and his admission that he found the email on a desk in the workplace. He knew what to do when he came across information that he should not possess but he did not destroy the email. Mr. Noonan's evidence is that he took a photo of the email and sent it by

text to Witness 2 on October 14, 2023. Mr. Noonan's evidence was that he did not have the supervisor's consent or knowledge of possessing or disclosing the email. Witness 2's testimony was that she received a text from Mr. Noonan on October 14, 2023 with an image of the email. Witness 1's testimony was that she did not consent to Mr. Noonan sharing the email and was unaware that he had possessed and shared it until Witness 2 notified Individual C about it.

279. The Tribunal finds that Allegation 2 is proven on a balance and probabilities.

280. Regarding the second part of the analysis and whether the conduct is unprofessional conduct, the Tribunal considered the submissions of Ms. Kay that the context of Mr. Noonan asking for advice, being unheard in the workplace and the sexual harassment he alleged is part of the analysis of whether the conduct is serious enough or rises to the level of unprofessional conduct. Mr. Noonan testified that he was aware of what to do with information and proceeded anyway. He justified his actions by testifying that the email was not about a patient.

281. The Tribunal is not satisfied that context supports Mr. Noonan's conduct. The Tribunal acknowledges the workplace was not always kind to Mr. Noonan and specifically, that a team photo with Mr. Noonan's face cut out of it was on display in an open cubicle belonging to Individual C, one of the authors and communicators on the email that contained information about Mr. Noonan's friend and colleague. The Tribunal also recognized that Individual C's comments may have been upsetting to Mr. Noonan. Mr. Noonan's testimony was that Individual C also would not provide the reference letter Mr. Noonan needed. This context may support Mr. Noonan's belief that he was treated in an unkind way but does not support his behaviour. Mr. Noonan's conduct did not reflect an understanding of private communications and whether he had any right to possess and disclose the communication.

282. The Tribunal determined that Mr. Noonan's conduct in Allegation 2 is conduct that contravened the HPA, the Code of Ethics and Standards of Practice.

### **Code of Ethics and Standards of Practice**

283. The Tribunal found that the following Principles of the Code of Ethics were breached by Mr. Noonan:

#### Principle 2 – Responsibility to the Profession

b. Honesty – A regulated member demonstrates honesty and truthfulness in their professional relationships with colleagues, patients and patient representatives.

f. Integrity and respect – A regulated member displays integrity and respect in all interactions with other healthcare professionals.

#### Principle 3 – Responsibility to Oneself

a. Personal conduct – A regulated member maintains a level of personal conduct that upholds the trust of the public and the integrity of the profession.

b. Accountability A regulated member takes responsibility and is accountable for their professional activities.

284. The Tribunal found that the following Standards of Practice and indicators were breached by Mr. Noonan:

### Standard of Practice 2.1 Legislation, Standards and Ethics

A regulated member of the Alberta College of Medical Diagnostic and Therapeutic Technologists adheres to the legislative requirements governing the practice of the member's specialty and the College's Code of Ethics and Standards of Practice.

- b. Maintain and apply the knowledge, skills, judgments and behaviours necessary for safe, competent and ethical practice
- e. Recognize, avoid and/or manage real or perceived conflict of interest situations.

### Standard of Practice 2.4 Professional Boundaries

A regulated member of the Alberta College of Medical Diagnostic and Therapeutic Technologists maintains clear professional boundaries in relationships with patients, families and colleagues.

- a. Adhere to the Code of Ethics of the College.
- f. Utilize the member's position to establish only appropriate professional relationships with a patient, their family or a colleague.

### Standard of Practice 3.1 Collaboration/Professional Relationships

A regulated member of the Alberta College of Medical Diagnostic and Therapeutic Technologists works effectively as a member of an interprofessional team to facilitate safe, competent and ethical service delivery, and to contribute to a positive work environment.

- c. Consult with other colleagues, as required, to facilitate timely, appropriate, safe, competent and ethical practice.

285. The Tribunal found that the breaches of the Code of Ethics and Standards of Practice were serious. Mr. Noonan was aware of the policy about finding documents that should not be accessible. He shared the email that contained personal and private information of a colleague and their supervisors without consent. Sharing of this email would cause distrust in the workplace.

286. The breaches of the Code of Ethics and Standards of Practice are serious and constitute unprofessional conduct under section 1(1)(pp)(ii) of the HPA.

### **ALLEGATION 3**

287. Allegation 3 is that on or about December 13, 2023, Mr. Noonan distributed an intimate video of Witness 4, who, at that time, was a colleague at South Health Campus, to a different colleague at South Health Campus without Witness 4's consent.

288. The Tribunal relied on the definition of intimate image presented by the Complaints Director and specifically an intimate image means: a visual recording of a person in which the person is nude, is exposing their genital organs or anal region or breasts or is engaged in explicit sexual activity.

289. The video referenced in Allegation 3 is a 11 second video of a visual recording of a woman who is wearing lingerie. The woman's face is not exposed. The woman

is engaging in an act that is an explicit sexual activity in that she is rubbing her breasts in a sexual manner. This video was an intimate image.

290. The Tribunal considered the evidence of Mr. Noonan at the hearing and his admission that he distributed an intimate video of Witness 4 to Witness 3 without Witness 4's consent. Witness 3 asked if it is of Witness 4 and Mr. Noonan confirmed to Witness 3 by text that it was her. The thumbnail of the video displays the image of Witness 4 in lingerie.

291. The evidence at the hearing is that Witness 4 sent the intimate video by text to Mr. Noonan during the course of their relationship in 2020. Mr. Noonan's evidence is that Witness 4 sent the intimate video by text to him in May 2023.

292. The testimony of Mr. Noonan and Witness 4 was consistent that Witness 4 did not consent to the distribution of the video. When Witness 4 sent the video to Mr. Noonan is not relevant to the factual admissions that it was texted to him from Witness 4 and she did not provide consent to him to distribute it.

293. Mr. Noonan's evidence is that he regretted sending the intimate video of Witness 4 to Witness 3 and he was not aware it was inappropriate to share it. The Tribunal noted that by December 13, 2023, Mr. Noonan was under investigation in the workplace for distributing the photo of Witness 4 to Witness 2.

294. The Tribunal found Allegation 3 is proven on a balance and probabilities.

295. Regarding the second part of the analysis and whether Mr. Noonan's conduct is unprofessional conduct, the Tribunal considered the submissions of Ms. Kay that the context of Mr. Noonan asking for advice, being unheard in the workplace and being sexually harassed is part of the analysis of whether the conduct is serious enough or rises to the level of unprofessional conduct.

296. The Tribunal is not satisfied that context supports Mr. Noonan's conduct. The Tribunal relies on its reasons set out in Allegation 1.

297. The Tribunal determined that Mr. Noonan's conduct in Allegation 3 is conduct that contravened the HPA, the Code of Ethics and Standards of Practice.

### **Code of Ethics and Standards of Practice**

298. The Tribunal found that the following Principles of the Code of Ethics were breached by Mr. Noonan:

#### Principle 2 – Responsibility to the Profession

b. Honesty – A regulated member demonstrates honesty and truthfulness in their professional relationships with colleagues, patients and patient representatives.

f. Integrity and respect – A regulated member displays integrity and respect in all interactions with other healthcare professionals.

#### Principle 3 – Responsibility to Oneself

a. Personal conduct – A regulated member maintains a level of personal conduct that upholds the trust of the public and the integrity of the profession.

299. The Tribunal found that the following Standards of Practice and indicators were breached by Mr. Noonan:

#### Standard of Practice 2.4 Professional Boundaries

A regulated member of the Alberta College of Medical Diagnostic and Therapeutic Technologists maintains clear professional boundaries in relationships with patients, families and colleagues.

a. Adhere to the Code of Ethics of the College.

300. The Tribunal found that the breaches of the Code of Ethics and Standards of Practice were serious and constitute unprofessional conduct under section 1(1)(pp)(ii) of the HPA.

301. The Tribunal concluded that Standard 2.6 Communication was not breached by Mr. Noonan in relation to each of the three allegations because Standard 2.6 addresses communications that relate to patient care and an impact on patient care.

Standard 2.6 outlines that a regulated member of the Alberta College of Medical Diagnostic and Therapeutic Technologists communicates effectively to ensure safe, competent and ethical service delivery. There was no evidence of an impact on patient care which is service delivery.

302. The Tribunal concluded that Code of Ethics Principle 2 was not breached by Mr. Noonan. At the hearing, Mr. Noonan admitted to the facts of each allegation which saved time and resources. This conduct demonstrated some personal responsibility for his professional decisions and the impact on his practice.

303. Further, the Tribunal concluded that overall, Mr. Noonan did not engage in conduct that harmed the integrity of the regulated profession, as set out in section 1(1)(pp)(xii) of the HPA. Mr. Noonan's conduct reflects poorly on himself, his choices and decisions. It reflects on the individual not the profession. Mr. Noonan's conduct does not taint the entire profession such that patients will not trust their regulated professionals to handle their personal information and images appropriately and in confidence.

#### **L. CONCLUSION**

304. For the reasons set out above, the Tribunal finds Allegations 1, 2 and 3 proven on a balance of probabilities and that the proven conduct of Mr. Noonan amounts to unprofessional conduct. The Tribunal's next role is to determine what, if any, orders it will make about Mr. Noonan under the authority of section 82 of the HPA.

305. The Tribunal will receive submissions on sanction and costs by the Complaints Director and Mr. Noonan. The Tribunal requests the parties discuss this including the manner in which submissions will be provided and the timing. By February 24, 2026, the parties will write to the Hearings Director with the proposal on making submissions on sanction. If the parties propose oral submissions on sanction, the Tribunal requests that the parties provide 4 mutually agreeable dates to the Hearings Director.

306. If the Complaints Director and Mr. Noonan are unable to agree on a proposed procedure and timing by February 24, 2026, the Hearings Director must be notified by the parties and the Tribunal will determine the method and schedule.



Dated February 3, 2026  
Signed on behalf of the Tribunal

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Andrew Otway, Chair