

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

A. INTRODUCTION

1. In the February 3, 2026 decision of the Tribunal of the Alberta College of Medical Diagnostic and Therapeutic Technologists (the College), Mr. Joshua Noonan was found guilty of the following:

One: 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.

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

Three: 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.

2. The members of the Tribunal were:

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

3. Ms. Colleen Wetter acted as independent legal counsel for the Tribunal.
4. In the Tribunal's February 3, 2026 decision (the Merits Decision), Mr. Noonan and the Complaints Director were asked how they would like to proceed to address the second part of the hearing. Mr. Noonan and the Complaints Director agreed to make oral submissions to the Tribunal about section 82 of the *Health Professions Act* (HPA).
5. Counsel for the Complaints Director, Mr. Jason Kully, and Counsel for Mr. Noonan, Ms. Paula Kay, made submissions to the Hearing Tribunal about an appropriate sanction and costs to be ordered by the Hearing Tribunal.
6. The virtual hearing was continued on April 9, 2026 via video conference before the Hearing Tribunal. The Complaints Director submitted case law and an estimate of costs to the Hearing Tribunal. Mr. Noonan submitted case law to the Hearing Tribunal.

B. SANCTIONS and COSTS SUBMISSIONS

7. The Complaints Director requested the Tribunal make the following orders against Mr. Noonan:
 - a. A reprimand and the Merits Decision would serve as the reprimand.
 - b. A fine of \$1,000 for each finding of unprofessional conduct to total \$3,000 payable within six months of the hearing Tribunal's written decision.
 - c. If Mr. Noonan returns to practice with the College and if he is issued a practice permit, his practice permit would be immediately suspended for 24 months.
 - d. If Mr. Noonan returns to practice with the College and if he is issued a practice permit, Mr. Noonan would complete, at his own cost, the PROBE Ethics and Boundary Program offered by the Centre for Personalized Education for Professionals (Probe Course) within 12 months of his practice permit being renewed.
8. Regarding costs, the Complaints Director submitted that the amount of \$25,000 is appropriate for Mr. Noonan to pay.
9. Mr. Noonan did not agree with the orders proposed by the Complaints Director and requested that the Hearing Tribunal make the following orders:
 - a. A reprimand and the Merits Decision would serve as the reprimand.
 - b. No suspension because Mr. Noonan has effectively served a suspension because he did not work for one year. If the hearing tribunal determines a suspension is necessary, 1 to 3 months was proposed, with credit for the time he was out of practice after his termination, effectively resulting in the suspension served in full.
 - c. No financial penalties because of the financial losses he has suffered after being terminated.
10. Regarding costs, Mr. Noonan submitted that the range of \$5,000 is appropriate for Mr. Noonan to pay.

a. OPENING SUBMISSIONS

i. Complaints Director

11. The Complaints Director reminded the Tribunal that they have authority to order a range of sanctions and costs in the *Health Professions Act* that are necessary to protect the public from unprofessional conduct of a similar nature from Mr. Noonan and other members of the profession in the future and that are appropriate in the context of the case. The Tribunal has the authority over Mr. Noonan to order sanctions and costs.
12. The Complaints Director also reviewed some facts and specifically that Mr. Noonan does not currently have an active practice permit with the College. He was administratively suspended for failing to complete the College's Continuing Competence Program (CCP) requirements and not participating in the College's CCP audit (Audit). His suspension had nothing to do with the allegations in this case. Because Mr. Noonan did not partake in the CCP or Audit, he was not able to renew his practice permit in 2025 or 2026.

13. The Complaints Director relied on the case of *Charkhandeh v. College of Dental Surgeons of Alberta*¹ (“Charkhandeh”) which sets out how hearing tribunals should be approaching sanctions, a copy of which was submitted by the Complaints Director and Mr. Noonan.
14. The Complaints Director explained that in Charkhandeh, the Alberta Court of Appeal confirmed the purpose of sentencing in professional regulatory cases remains ensuring the public is protected from unprofessional conduct in the future. Counsel for the Complaints Director proposed orders that are necessary to protect the public from unprofessional conduct of a similar nature from both Mr. Noonan and other members of the profession in the future.
15. The goal of protecting the public is achieved by ensuring that the public is not at risk of future harm from Mr. Noonan. It is achieved by sending an appropriate message to other registrants of the profession through the College's response to the conduct that is found to be unacceptable and unprofessional.
16. The Complaints Director referenced paragraph 89 in Charkhandeh. The court says that when a college positively deals with unprofessional conduct and imposes a suitable and proportionate sanction, the public will have confidence in the integrity of the profession. The goal of the Complaints Director is to maintain that confidence in the integrity of the profession and protect the public from unprofessional conduct in the future.

ii. Mr. Noonan

17. Mr. Noonan explained they would be approaching the sanction submissions based on Charkhandeh’s interpretation of the 13 Jaswal factors that the Alberta Court of Appeal condensed into 7 factors.

b. Charkhandeh Factors

18. The Complaints Director and Mr. Noonan agreed the seven factors that are relevant to determine an appropriate sanction are set out in Charkhandeh. Each factor is set out below with the submissions of the Complaints Director, followed by the submissions of Mr. Noonan.

ONE: The seriousness of the conduct: this includes the nature and gravity of the proven allegations; the number of times the offence occurred; the degree to which the offensive conduct was clearly regarded by consensus as being the type of conduct that would fall outside the range of permitted conduct, not an error of judgment.

19. The Complaints Director submitted:

¹ 2025 ABCA 258.

- a. Mr. Noonan's conduct was intentional and repeated conduct that fell far outside the range of permitted conduct because he deliberately distributed two intimate images on two different occasions to two different individuals. One of the distributions occurred after he was under investigation by AHS for the initial disclosure.
- b. Mr. Noonan's conduct was not an error of judgment or a lapse of judgment; it was serious and intentional and at the extreme end of a breach of privacy.
- c. Mr. Noonan embarrassed and humiliated the complainant, violated her dignity and trust by the deliberate disclosure of sensitive personal and private images.
- d. The seriousness of the conduct is displayed in the fact that it could result in a criminal conviction for disclosing intimate images.
- e. Mr. Noonan was also found to have breached multiple Code of Ethics and Standards of Practice, including the failure to display integrity and a failure to maintain clear professional boundaries with coworkers.
- f. Mr. Noonan disclosed private e-mail correspondence from a supervisor which is serious but not on the same spectrum of seriousness as the two distributions of intimate images.
- g. Mr. Noonan did not have consent to distribute the intimate images or the e-mail correspondence and there was no professional purpose, or legitimate reason for distributing these things.
- h. The fines, suspension of the practice permit and the Probe Course for ongoing learning supports this factor.

20. Mr. Noonan submitted:

- a. Mr. Noonan acknowledges his actions were unprofessional and outside of the range of permitted conduct.
- b. His actions did have a serious impact on Witness 4 and his other colleagues.
- c. Mr. Noonan's conduct did not involve unwanted or unwelcomed physical touching or involve direct communication of an inappropriate nature with Witness 4.
- d. Mr. Noonan acknowledges his conduct was unprofessional conduct of a sexual nature that did have a negative impact on Witness 4's privacy and dignity.
- e. The context of Mr. Noonan's conduct and the difficult work experience should be considered. He felt his own concerns at work were being dismissed. A group photo with his face cut out was on display with no apparent consequence for the person who was displaying it.
- f. Mr. Noonan shared the images and email because he was seeking advice from two trusted individuals and realizes now that he did not need to share the images and email to obtain advice.

TWO: Factors relating to the fundamental purpose of sanctions that includes the need for deterrence, protection of the public, confidence in the integrity of the profession.

21. The Complaints Director submitted:

- a. The second factor is related to the first factor.
- b. A firm and serious sanction is required given the seriousness of the conduct to maintain the integrity of the profession, public confidence in the profession and the need for deterrence.
- c. Mr. Noonan's conduct was far from acceptable and other members of the profession need to be deterred from this type of conduct in the future.
- d. The fines of \$3,000 serve to deter Mr. Noonan and other members of the profession in the future.
- e. A suspension, if Mr. Noonan obtains a practice permit, demonstrates that there is a serious consequence for this misconduct.

22. Mr. Noonan submitted:

- a. Mr. Noonan has experienced general deterrence because he was terminated with cause, prior to the College's investigation and hearing.
- b. Mr. Noonan was effectively unemployable in Alberta and moved two times across the country, which limited his income.
- c. These events are sufficient to deter him from any future conduct and deter other registrants from similar conduct.
- d. Mr. Noonan's conduct did not harm any patients or other members of the public.
- e. There is no evidence the public requires protection from him and he has no history of allegations of unprofessional conduct involving patients.
- f. Mr. Noonan submitted the College has acted appropriately and the public ought to be confident in the integrity of the profession.

THREE: Character and personal attributes of the professional that includes the age and experience of the offending professional, previous character, presence or absence of prior complaints or convictions.

23. The Complaints Director submitted:

- a. Mr. Noonan was first registered with the College in 2013; he is not new to the world of professional regulation and what type of conduct would be acceptable in the workplace under the HPA.
- b. Given his age and experience, Mr. Noonan should have known this conduct was unprofessional and there would be consequences for his actions.
- c. Mr. Noonan has had no prior findings of unprofessional conduct.

24. Mr. Noonan submitted:

- a. Mr. Noonan's conduct did not arise from inexperience or lack of knowledge of being a regulated professional.
- b. The context is also important such as dealing with difficult situations at work that may have clouded his judgment.
- c. Mr. Noonan does not have any complaints or prior findings of unprofessional conduct and had no allegations of misconduct pertaining to patient safety or care.

FOUR: Impact on the complainant/patient that includes age and mental condition of the complainant and impact of the incident on the complainant.

25. The Complaints Director submitted:

- a. The age and mental condition of the complainant are not relevant because the complainant was not a particularly vulnerable person who was young.
- b. Mr. Noonan's conduct had a significant impact on the complainant that was harmful and detrimental to her.
- c. Witness 4 gave evidence that it impacted her ability to go to work and face her co-workers.
- d. Witness 4 was embarrassed and mortified.
- e. Witness 4 and Witness 2 were negatively impacted by Mr. Noonan's conduct; his conduct could be disruptive in the workplace and create mistrust among coworkers who handle sensitive patient information and rely on their coworkers.

26. Mr. Noonan submitted:

- a. Mr. Noonan acknowledged the impact of his conduct on Witness 4.
- b. Mr. Noonan was not in a position of authority over Witness 4 because they were colleagues and had been involved in a personal relationship outside of their employment.
- c. Witness 4 did not have to leave her work and maintained the same employment despite her embarrassment.

FIVE: Mitigating factors that include acknowledgement of responsibility.

27. The Complaints Director submitted:

- a. Mr. Noonan did not acknowledge responsibility in this case.
- b. There are no mitigating factors present.
- c. Although Mr. Noonan expressed regret during the hearing and after the Complaints Director's evidence was called about sending the intimate images, he said he was not aware it was inappropriate to share them.
- d. Mr. Noonan made no admissions of unprofessional conduct prior to the hearing that could have prevented Witness 4 from testifying.
- e. At the hearing, Mr. Noonan argued the conduct was not unprofessional conduct and therefore did not take responsibility for it.
- f. He did not apologize and continued to blame Witness 4 for his conduct.
- g. Mr. Noonan defending himself at a regulatory hearing is not an aggravating factor but none of his evidence at the hearing is a mitigating factor because he did not admit his conduct or take responsibility for it.

28. Mr. Noonan submitted:

- a. Mr. Noonan did not plead guilty or acknowledge his conduct was unprofessional. This is a neutral factor because he has a right to a hearing.
- b. It is not an aggravating factor even if admitting unprofessional conduct and making a joint submission are mitigating factors.

- c. The context of the issues Mr. Noonan was having at work that may have clouded his judgment and mitigates the circumstances are important considerations.

SIX: Impact of the sanction on the professional that includes whether Mr. Noonan has suffered other penalties as a result of his conduct, such as an interim suspension.

29. The Complaints Director submitted:

- a. Mr. Noonan was not suspended by the College because of the conduct and the administrative suspension is unrelated to this conduct.
- b. Mr. Noonan has not had financial or other penalties from the College because of his conduct.
- c. Mr. Noonan was terminated from AHS in January 2024.

30. Mr. Noonan submitted:

- a. Mr. Noonan was terminated with cause in January 2024 which meant he was not given notice and did not receive compensation in lieu of notice.
- b. Mr. Noonan was basically unemployable in his field in Alberta and remained unemployed for over a year.
- c. Mr. Noonan incurred costs to move for work two times.

SEVEN: Parity that includes the range of sanctions in other similar cases.

31. The Complaints Director submitted:

- a. Other cases are not binding on the Hearing Tribunal but can provide helpful guidance to ensure that similar conduct is not resulting in disparate consequences.
- b. The Hearing Tribunal should not unduly focus on other decisions because other cases are one factor and are not determinative.
- c. It was difficult to find cases that were on point to Mr. Noonan's case of distributing intimate images.
- d. The case of *Law Society of Alberta v Gill*² (Gill) addressed distribution of sexually explicit client videos by a lawyer to their prospective employee without consent. The lawyer was disbarred.
- e. The cases relied on by counsel for Mr. Noonan are joint submissions on sanction that are negotiated and based on an individual's guilty plea, admission to the conduct and agreement on the appropriate sanction. Because the law requires a hearing tribunal give deference to a joint submission, the test to assess what is needed to protect the public interest and the public is different with joint submissions.

32. Mr. Noonan submitted:

² 2026 ABLs 3, Decision date February 23, 2026.

- a. Every case has its unique facts and must be decided on its own facts because no two cases are alike.
- b. There are not any cases where the misconduct was of a sexual nature involving the forwarding of intimate images or videos but not involving any inappropriate touching or comments and not involving patients or subordinate employees.
- c. The Gill case bears no similarities to Mr. Noonan's case.
- d. In the College of Physicians and Surgeons (CPSA) case of Dr. Imtiaz³ (Imtiaz) a 6 month suspension was ordered for conduct more serious than Mr. Noonan's conduct. Imtiaz was found to have engaged in sexual misconduct with patients, including unwanted touching, sexual comments, and exams without a chaperone, contrary to an undertaking.
- e. In the CPSA case of Dr. Fadayomi⁴ (Fadayomi), the hearing tribunal ordered a 4 month suspension, although the joint submission on sanction proposed a 3 month suspension. The case was more serious than Mr. Noonan's and involved intentional touching of the breast of a subordinate employee.
- f. In the case of Dr. Martin⁵ (Martin), the hearing tribunal determined Dr. Martin bit a nurse's arm and made comments of a demeaning and sexual nature to other nursing staff. The hearing tribunal ordered a reprimand and one month suspension.
- g. In the case of Dr. Ovueni⁶ (Ovueni), the hearing tribunal determined Dr. Ovueni hugged and air-kissed a subordinate employee without her consent. The hearing tribunal ordered a reprimand, 3 month suspension and other sanctions.
- h. The cases of Dr. Taher⁷ (Taher) and Dr. Graff⁸ (Graff) are precedents for the principles that credit can be given for prior absences from the profession and that a suspension can be deemed to be served in full as a result of the prior absences.

33. The Complaints Director also submitted that the prospect of rehabilitation and the principle of restraint are additional considerations for the Hearing Tribunal in their decision and submitted:

- a. The focus of the proposed sanction by the Complaints Director is balanced because there is a fine for misconduct that also allows for remediation and a pathway for Mr. Noonan to return to the profession if he chooses to seek to renew his practice permit.
- b. The Probe Course will provide learning and rehabilitation.
- c. The sanctions proposed consider all factors, while providing deterrence and rehabilitation.
- d. If Mr. Noonan does not seek a practice permit in Alberta, he will not serve a suspension or not be required to take the Probe Course.

³ Imtiaz (Re), 2020 CarswellAlta 1808.

⁴ Fadayomi (Re), 2025 CarswellAlta 759.

⁵ Martin (Re), 2021 CanLii 73132.

⁶ Ovueni (Re), 2021 CarswellAlta 3382.

⁷ Taher (Re), 2017 CarswellAlta 3043.

⁸ Graff (Re), 2018 CarswellAlta 743.

c. COSTS

34. The Complaints Director submitted Charkhandeh set out that costs should be considered after a sanction has been determined and are not a further punishment. The Hearing Tribunal needs to determine if it will order costs against Mr. Noonan and if it is going to do so, how much of a cost order it will make.
35. The Complaints Director submitted they are seeking an order that Mr. Noonan pay \$25,000 costs. They are not seeking recovery of all costs in relation to the College's investigation and hearing, including the costs of the sanction and cost proceedings.
36. The Complaints Director referred to the spreadsheet that they submitted in relation to the costs of \$74,000 incurred by the College for Mr. Noonan's investigation and hearing, not including any time spent for preparing for the April 9, 2026 sanction hearing, and attendance at the April 9, 2026 hearing.
37. The Complaints Director noted pre-hearing costs of investigator and legal are \$27,000. The hearing costs are approximately \$46,000 that include the court reporter, independent legal counsel for the hearing tribunal and counsel for the Complaints Director.
38. The Complaints Director submitted that section 82 of the HPA gives authority to the Hearing Tribunal to award all or a portion of the costs incurred and noted the following are considerations for the Hearing Tribunal when assessing a cost award:
 - a. Number of allegations and overall success of the parties without reducing this to a mathematical calculation.
 - b. The length and extent of the hearing.
 - c. The types of expense incurred and the overall reasonableness.
 - d. If either party engaged in unreasonable or inefficient conduct such as making excessive allegations and bringing unnecessary applications that could make the hearing last longer and therefore increasing the costs for no reason.
 - e. Mr. Noonan's circumstances and the overall burden of a cost award on him such that a costs award would be disproportionate or crushing and deprive or discourage other registrants from fully defending themselves.
39. The Complaints Director submitted the profession as a whole should not bear the costs of Mr. Noonan's conduct that required a contested hearing. The Tribunal found the Complaints Director had proven Mr. Noonan was guilty of all three allegations and the allegations amounted to unprofessional conduct. It is appropriate for Mr. Noonan to pay a portion of the College's investigation and hearing costs and for that portion to be substantial, given the hearing was necessary and the three allegations were proven.
40. The length and extent of the hearing were efficient, appropriate and reasonable. The Complaints Director called four witnesses that were called in one day. No written submissions were submitted that could increase costs.

41. Although Mr. Noonan was entitled to contest the hearing, there are no mitigating factors to consider here such as an admission that would have made the hearing shorter, or an agreed statement of facts or agreed exhibit book. There is nothing from Mr. Noonan that should be considered a mitigating factor and reduce the costs that should be awarded against him.
42. The Complaints Director is not seeking recovery of the independent legal counsel fees because they are part of the hearing and similar to costs of hearing tribunal members.
43. The Complaints Director submitted that Charkhandeh indicates that legal costs should be calculated as if the work was done by one lawyer of mid-level seniority at appropriate rates, which he is. There was only one lawyer involved and there was not a duplication of costs. The costs were not extravagant and were reasonable.
44. The Complaints Director acknowledged that \$25,000 for a two day hearing are significant but not a crushing blow or disproportionate to prevent a registrant from defending themselves. Ultimately \$25,000 was estimated to represent 30 percent of the total costs, including estimated sanction proceedings.
45. Mr. Noonan submitted that Mr. Noonan ought to bear some costs but how much he should bear is in dispute. Mr. Noonan submitted the amount of \$5,000 is appropriate.
46. Mr. Noonan relied on Charkhandeh that outlined costs are not another form of sanction. The length and extent of the hearing and the conduct of the parties are relevant factors in assessing costs. The seriousness of the actions and the moral indignation are not relevant to a costs determination.
47. Mr. Noonan explained that unlike the \$50,000 costs ordered by the Alberta Court of Appeal for a 13 day hearing over a nine month period in Charkhandeh, Mr. Noonan's hearing required 2 consecutive days. There was no delay or misconduct by either party. Mr. Noonan is entitled to defend himself and the fact that he did not admit he was guilty during the hearing should not increase the cost order against him.
48. Mr. Noonan challenged the cost information provided by the Complaints Director because it did not include the hourly rate of counsel for the Complaints Director and had insufficient detail. Additional detail such as the hourly rate, the hours spent and the reasonableness of the time are necessary to determine how much of the costs should be apportioned to Mr. Noonan. Mr. Noonan questioned if counsel was of mid-level seniority.

d. Complaints Director's Reply

49. The Complaints Director submitted context was considered by the Hearing Tribunal in the Merits Decision and was found to not be sufficient to address the issue of unprofessional conduct and therefore is not relevant to the issue of sanction.
50. The Complaints Director referenced the Merits Decision and that the Hearing Tribunal recognized the context but it did not justify or negate Mr. Noonan's conduct and his obligations as a registrant to abide by the Code of Ethics, the Standards of Practice and the HPA.
51. The Complaints Director disagreed with Mr. Noonan that protection of the public is not engaged here, as argued by Mr. Noonan. The Complaints Director submitted that protection of the public includes colleagues. Protection of the public is broader than patients.
52. Although the Complaints Director agreed with Mr. Noonan that termination from his employment is a consideration, it is one of the factors. It should not overwhelm the other factors and the seriousness of Mr. Noonan's conduct. It should not overwhelm the impact on the complainant.
53. The Complaints Director submitted that a reprimand for two instances of distributing intimate images of a colleague is not sufficient to protect the public and maintain the integrity of the profession.
54. The Complaints Director acknowledged that the Graff and Taher cases do acknowledge credit for time out of the workplace but in those cases, they signed voluntary undertakings to not practice their profession. Mr. Noonan did not sign an undertaking. The Hearing Tribunal should not give him consideration for time away because he could not find a job.
55. The Complaints Director submitted that the Hearing Tribunal should follow the factors established by the Court of Appeal in Charkhandeh and use a principled approach to determine the order of costs in this case. The Hearing Tribunal has sufficient information to determine costs but additional information can be provided.

C. QUESTIONS FROM THE TRIBUNAL

56. The Tribunal clarified with Mr. Noonan that he was proposing that a reprimand is appropriate but if the Hearing Tribunal felt that a suspension was appropriate, an order of 1 to 3 months is appropriate with credit for his time away from the profession.
57. The Tribunal asked for information about the cost and timing of the Probe Course. The Complaints Director provided information about the content of the course and that it involves how and why the professional practices, their responses to stress and how

personal or situational factors initially put them at risk for exercising poor judgement or rationalizing improper behaviour, leading to professional boundary violations. The Probe Course involves developing a personalized protection plan outlining the steps and changes they will make to avoid future wrongdoings, safeguard patients and colleagues, and honour the reputation of the profession moving forward.

58. The Complaints Director explained that the next three day course was being offered in May, over the weekend, at a cost of \$1,875. It could be completed virtually. The Complaints Director stressed that Mr. Noonan would only be required to take the Probe Course if he obtained re-registration in Alberta.

D. SANCTION DECISION AND REASONS

a. Sanction Decision

59. The Tribunal orders the following sanction against Mr. Noonan, by the authority of section 82 of the HPA:
- a. A reprimand and the Merits Decision is the reprimand;
 - b. A fine of \$1,000 for the first charge, payable by December 31, 2026;
 - c. A fine of \$500 for the second charge, payable by December 31, 2026;
 - d. A fine of \$1,000 for the third charge, payable by December 31, 2026;
 - e. A suspension of six months, to be immediately served if Mr. Noonan successfully re-registers and obtains a practice permit with the College; and
 - f. The Probe Course to be taken within 12 months of Mr. Noonan successfully re-registering and obtaining a practice permit with the College.

b. Reasons for the Sanction Decision

60. The Tribunal understands the purpose of sanctions against Mr. Noonan are protection of the public from unprofessional conduct of a similar nature by Mr. Noonan and other registrants of the College. The Tribunal considered proportionality, restraint, and enabling rehabilitation of Mr. Noonan are important. The Tribunal understands the principle of restraint means that the most lenient sanction that serves the legitimate purpose of protecting the public can be ordered. The Tribunal considered each sanction it ordered and the entire sanction as a whole in its decision.
61. The Tribunal also considered the 7 Charkhandeh factors and the submissions of the Complaints Director and Mr. Noonan. The Tribunal also considered section 82 of the HPA.
62. The Tribunal recognizes Mr. Noonan was not a new registrant and his conduct as outlined in the three findings of unprofessional conduct did not arise from inexperience or lack of knowledge. Mr. Noonan also had a career before he registered with the College and started working in the profession in 2013.

63. The charges that were proven against Mr. Noonan arose from two complaints made to the Complaints Director. The first complaint was made on January 22, 2024 and the second complaint was made on February 14, 2024.
64. The Tribunal recognizes Mr. Noonan has not had any prior findings of unprofessional conduct against him.
65. The impact of Mr. Noonan's conduct on the complainant in the intimate image charges 1 and 3 was significant. Witness 4 gave evidence that she was embarrassed, humiliated, mortified and her relationship with her colleagues changed. She felt paranoid.
66. The Tribunal also considered the impact of Mr. Noonan's conduct on Witness 2, Mr. Noonan's former colleague, to whom he sent the email and one of the intimate images of Witness 4. Witness 2's evidence was she became leery of her work surroundings and questioned who she could trust.
67. As stated in the Merits Decision, Mr. Noonan violated the trust, dignity and privacy of Witness 4.

i. Reprimand

68. A reprimand is an appropriate order to publicly address that Mr. Noonan's conduct was unprofessional. The reprimand is absolute and is not conditional on Mr. Noonan successfully re-registering and obtaining a practice permit with the College. The Complaints Director and Mr. Noonan agreed a reprimand was appropriate.
69. With the reprimand, Mr. Noonan knows unequivocally that his conduct as displayed in the three findings of unprofessional conduct is not acceptable.

ii. Fines

70. Fines are almost entirely punitive and are within the discretion of the Tribunal to order under section 82(1)(h) of the HPA. The Tribunal recognizes that the Alberta Court of Appeal in Charkhandeh categorized fines as a punishment. The fines would punish Mr. Noonan and act as a specific and general deterrent. Their impact on the protection of the public or the reputation of the profession is more indirect.
71. The Tribunal views Mr. Noonan's conduct as requiring punishment and continued deterrence through the order of fines for each charge. Mr. Noonan distributed the second intimate image that was a video after he was notified he was under investigation by AHS. He was not deterred by that investigation and was motivated by his own reasons.
72. The Tribunal recognizes there is not a presumption that the maximum fine is an appropriate fine for every finding of unprofessional conduct. As set out in the HPA, the maximum fine for each finding of unprofessional conduct is \$5,000.

73. The Tribunal has considered the submissions of the Complaints Director and Mr. Noonan and agree with the Complaints Director that Mr. Noonan's conduct in distributing the intimate images was more serious than distributing the email. The email was serious in that it was something that Mr. Noonan should have never distributed and he distributed it to at least one colleague who was referenced in the email. Because of this, the Tribunal does not believe a blanket order of a \$1,000 fine for each charge is merited.

74. The \$500 fine for the second finding recognizes that it is less serious than the findings from charges 1 and 3 but still very serious to require a punishment.

iii. Suspension

75. The Tribunal finds a suspension is necessary. The Complaints Director asked the Tribunal to order a 24 month suspension. Mr. Noonan did not agree a suspension is necessary but conceded that if the Tribunal was inclined to order a suspension, 1 to 3 months are appropriate.

76. The Tribunal finds 24 months is not proportional or restrained as one of several sanctions ordered against Mr. Noonan. The Tribunal finds a 6 month suspension is appropriate if Mr. Noonan successfully re-registers and obtains a practice permit with the College. A 6 month suspension is a lengthy suspension.

77. Mr. Noonan's conduct involved many individuals in the workplace including the complainant Witness 4, at least two colleagues, his supervisor, and others. A 6 month suspension sends a strong message to Mr. Noonan and registrants of the College that this type of conduct is unprofessional conduct. The Tribunal believes the public confidence in the integrity of the profession would be undermined if no suspension or a short suspension is ordered.

78. Mr. Noonan's conduct was intentional and repeated conduct that fell far outside the range of permitted conduct because he deliberately distributed two intimate images on two different occasions to two different colleagues in the workplace.

79. Regarding the intimate images, Mr. Noonan admitted he intentionally sent the intimate images to his co-workers because he was seeking advice. He also recognized in hindsight that it was not necessary to send the images to get advice. He sent the second intimate image after the AHS investigation had started.

80. Mr. Noonan embarrassed and humiliated the complainant, violated her dignity and trust by the deliberate disclosure of sensitive personal and private images. In the Merits Decision, we found that Mr. Noonan had breached multiple provisions of the Code of Ethics and Standards of Practice.

81. The Tribunal has considered Mr. Noonan's submissions that he has learned his lesson and a suspension is not necessary. He was terminated from his employment and struggled to find work.
82. The Tribunal has considered the cases submitted by the Complaints Director and Mr. Noonan to support their positions. We also recognize that parity is a consideration but not the sole factor. Many of the cases submitted were joint submissions on sanction that involved a negotiated agreement between the Complaints Director and the registrant. However, a six month suspension is not completely out of line with the cases that were submitted.
83. We have considered Mr. Noonan's submissions that the lack of physical contact or touching should be considered. The Tribunal recognizes that physical contact or touching was not involved in this case.
84. The Tribunal recognizes that the fourth factor in Charkhandeh is the impact on the complainant. This factor is not limited to physical touching. The Hearing Tribunal disagrees with Mr. Noonan that the lack of physical contact or touching lessens the severity of his conduct. The psychological impact on the complainant or his colleague cannot be ignored. Six months is appropriate to address this conduct and to demonstrate there are serious consequences for this type of deliberate conduct.
85. Mr. Noonan also submitted that he did not have any direct communication with the complainant and this is a consideration in his favour. The Tribunal does not consider this to be a mitigating factor. The complainant found out Mr. Noonan had distributed the first intimate image from her supervisor. It was during the College's investigation that it became known that Mr. Noonan sent the second intimate image, a video. Around this time, the complainant became aware Mr. Noonan sent the second intimate image. Mr. Noonan's actions taken without the Complainant's knowledge were meant to undermine her in the eyes of her colleagues. It was act of power over her meant to turn her colleagues against her.
86. The fact that Mr. Noonan did not hold a position of authority over the complainant was considered in assessing an appropriate sanction. If he had held a position of trust or authority over the complainant, the sanction likely would have involved more than 6 months.
87. The context of the issues Mr. Noonan was experiencing in the workplace was also considered by the Tribunal. Mr. Noonan submitted that this context and his workplace issues should be a mitigating factor in the assessment of an appropriate sanction.
88. The Tribunal recognizes Mr. Noonan was found to have distributed two intimate images and one email. He distributed them from about August 2, 2023 to December 13, 2023.

There were multiple chances for Mr. Noonan to stop and consider what he was doing and he did not stop. This context does not mitigate a suspension.

89. The Tribunal has considered Mr. Noonan's submissions that if a suspension is ordered, it should be considered served because Mr. Noonan was terminated and not able to find work for one year.
90. The Tribunal recognizes Mr. Noonan was terminated from AHS and struggled to find work. He was not suspended on an interim basis from the College because of the complaint proceedings. He did not undertake with the College to stop practicing while he was under investigation by the College, like the cases of Taher and Graff argued by Mr. Noonan.
91. The impact on the termination is important but distinct from the regulatory proceedings at the College. The Hearing Tribunal does not find that Mr. Noonan's inability to find work has an impact on the suspension ordered. If he does not seek re-registration and a practice permit in Alberta, he will not have to serve a six month suspension.

iv. Probe Course

92. The Probe Course is remedial and meant to provide rehabilitation to Mr. Noonan if he successfully re-registers and obtains a practice permit. The Probe Course is three days and will cost Mr. Noonan \$1,875. Mr. Noonan can attend the Probe Course online. The Probe Course involves avoiding future wrongdoings and safeguarding colleagues.

E. COSTS DECISION and REASONS

93. The Tribunal has decided that Mr. Noonan must bear some of the costs of the proceedings and notes its authority to order him to pay a range of costs in section 82(1)(j) of the HPA. For the reasons outlined below, the Hearing Tribunal orders Mr. Noonan to pay costs to the College of \$8,000 by December 20, 2026.
94. The Complaints Director has asked for costs of \$25,000. Mr. Noonan has submitted that costs of \$5,000 is appropriate.
95. The Tribunal recognizes the law set out in Charkhandeh applies to costs orders in professional conduct proceedings.
96. The Tribunal recognizes that costs are neither mandatory nor automatically awarded to the College. Costs are meant to allocate the costs of the proceedings and are related to the process of the proceedings not the substance of the charges. Full indemnity costs are neither the starting point nor the default award.
97. Mr. Noonan was entitled to defend himself and contest the allegations against him at the hearing. The Tribunal agrees with both parties that the hearing was conducted in an efficient manner. This is a neutral factor for costs.

98. The Complaints Director was successful in proving the three allegations against Mr. Noonan. Four witnesses were required by the Complaints Director to prove their case. This factor supports a cost order against Mr. Noonan.
99. Mr. Noonan has asked the Tribunal to consider the effect of his conduct on his employability which affected his ability to earn a living. Mr. Noonan was terminated from AHS in 2024 and did not find work for one year. Mr. Noonan was not suspended on an interim basis from the College although he was administratively suspended for unrelated conduct. The Tribunal has considered this in the Cost Order because of the financial impact of the cost order on him. This supports a lower cost order against Mr. Noonan.
100. During the sanction hearing. Mr. Noonan asked for more detail about the costs breakdown than what was submitted by the Complaints Director, including the hourly rate of counsel for the Complaints Director.
101. The Tribunal notes the following from paragraph 146 of Charkhandeh:
A tribunal should not make an “in gross” percentage award of costs without having a clear idea of what is included. Merely knowing the approximate quantum is not sufficient. While the tribunal need not know the details of every dollar spent, it must have a reasonable idea of the types of expenses that are included and make some assessment of whether those expenses were reasonably incurred. Otherwise, the tribunal cannot properly know if it is reasonable and proportionate to transfer any of those costs to the professional. The tribunal must not simply award a percentage of the expenses incurred without examining the reasonableness of those expenses at a more granular level.
102. The Complaints Director submitted a breakdown of categories of costs of the College’s investigation and hearing that totaled \$74,000. These costs do not include the sanction costs of counsel for the Complaints Director to prepare and attend the sanctions hearing, and the court reporter and independent legal counsel including the written decision.
103. The Tribunal acknowledges that asking for more detail on every dollar spent in the cost breakdown may result in additional costs to the parties. The Tribunal may require submissions from the parties about the additional detail in the breakdown of costs submitted by the Complaints Director. The Tribunal is satisfied it has a reasonable idea of the costs and can make a reasoned and proportioned cost order without this additional information.
104. In ordering Mr. Noonan pays \$8,000 costs, the Tribunal has not included costs related to the Tribunal, specifically, costs of independent legal counsel and the court reporter. These costs were necessary to fulfill the College’s role in the HPA and neither party

engaged in unreasonable nor inefficient conduct that extended the length of the hearing increasing these specific hearing costs.

105. The fee for an external pre-hearing investigator, not employed by the College, was \$12,635. The pre-hearing and hearing legal costs for a single lawyer of mid-level seniority for the Complaints Director were \$41,512. These costs total \$54,147.

106. The College's investigation costs are reasonable considering the number of issues and the number of individuals involved in a contested hearing. The legal costs are also not unreasonable to address pre-hearing legal issues that arose and to prepare for and attend a two day contested hearing, with four witnesses, the registrant, and three allegations.

107. The \$8,000 cost order will not prevent other registrants from defending themselves at a hearing. It will not serve a crushing blow to Mr. Noonan because he is working. It will distribute the costs of the proceedings from the sole responsibility of the College to Mr. Noonan.

F. CONCLUSION

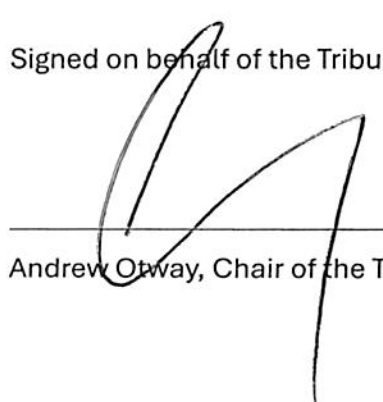
108. In conclusion, the Tribunal orders the following sanction against Mr. Noonan, by the authority of section 82 of the HPA:

- a. A reprimand and the Merits Decision is the reprimand;
- b. A fine of \$1,000 for the first charge, payable by December 31, 2026;
- c. A fine of \$500 for the second charge, payable by December 31, 2026;
- d. A fine of \$1,000 for the third charge, payable by December 31, 2026;
- e. A suspension of six months, to be immediately served if Mr. Noonan successfully re-registers and obtains a practice permit with the College; and
- f. The Probe Course to be taken within 12 months of Mr. Noonan successfully re-registering and obtaining a practice permit with the College.

109. The Tribunal orders Mr. Noonan to pay costs of the investigation and hearing of \$8,000 by December 31, 2026.

Dated June 17, 2026

Signed on behalf of the Tribunal



Andrew Otway, Chair of the Tribunal