

**ALBERTA COLLEGE OF OCCUPATIONAL THERAPISTS**

**IN THE MATTER OF  
A HEARING UNDER *THE HEALTH PROFESSIONS ACT*,**

**THE CONDUCT OF CHRISTOPHER THIESSEN**

**DECISION OF THE HEARING TRIBUNAL**

**OF THE**

**ALBERTA COLLEGE OF OCCUPATIONAL THERAPISTS**

(1) **Hearing**

1. The hearing was conducted at Field Law Offices in Edmonton, Alberta on June 20, 2019 with the following individuals present:

**Hearing Tribunal:**

James Lees, Public Member, Chairperson  
Kimberly Omar, Occupational Therapist (OT)  
Rosemary Koziel, OT

Blair Maxston, Independent Legal Counsel to Hearing Tribunal

**Alberta College of Occupational Therapists (the "ACOT")**

Patricia Wheadon, Complaints Director, ACOT

James Casey, Q.C. and Leanne Monsma, Legal Counsel for the Complaints Director

**Investigated Member:**

Christopher Thiessen OT, Investigated member

R. M. Gagnon, Legal Counsel for the Investigated member

Katherine Martin, student-at-law

**Former Patient:**

"AB"

(2) **Preliminary Matters**

2. At the outset of the hearing, Mr. Casey made an application under Section 78(1)(a)(iii) of the Health Professions Act ("HPA") to hold the full hearing in private and to not be open to the public. Mr. Casey submitted that the hearing pertains to a sexual relationship involving Mr. Thiessen and AB, a former patient of Mr. Thiessen's, and submissions will include highly sensitive behavior and personal health information. The application to close this hearing to the public is made in order to protect the health and personal information of patient AB. There were no objections to the application to hold the hearing in private, and the Hearing Tribunal ruled that Mr. Casey's application to close the hearing under Section 78(1) of the HPA be accepted.
3. Mr. Casey further requested that patient AB be allowed to attend the full hearing, noting that although patient AB is not the complainant in this matter, patient AB was

directly involved in events leading up to and resulting in the complaint being filed against Mr. Thiessen. There were no objections to having patient AB attend the full hearing.

4. Mr. Casey also noted that there are two changes to the Notice to Attend a Hearing dated May 9, 2019 (the "Notice of Hearing"), as follows:
  - a) Allegation #1 in the Notice of Hearing has been withdrawn by the College; and,
  - b) Allegation #3 should read in the first line "...indicator 2.1" instead of "...indicator 1.2".

The Notice of Hearing has been revised to reflect these two changes.

5. There were no objections to the members of the Hearing Tribunal hearing this matter, and no Hearing Tribunal members identified a conflict of interest. There were no objections to the jurisdiction of the Hearing Tribunal in hearing this matter.
6. Mr. Casey further noted that this case is not impacted by Bill 21 because the events leading up to the allegations against Mr. Thiessen predate the coming into effect of Bill 21 by the Alberta Legislature.
7. The hearing proceeded by way of an Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct (which was marked as Exhibit 1), and a Joint Submission on Sanction (which was marked as Exhibit 2). No witnesses were called to give evidence during the hearing, however patient AB was in attendance to provide a written victim impact statement to the Hearing Tribunal during the sanction phase of the hearing.

### **(3) Background**

8. The facts in this matter are not in dispute and can be briefly summarized as follows.
9. Mr. Thiessen was an Occupational Therapist ("OT") within the meaning of the HPA at all material times, and was registered with the College as an OT at the time of the Complaint (as that term is defined below).
10. Mr. Thiessen graduated from the University of Manitoba with a Masters of Occupational Therapy degree in August 2016, and became a regulated member of the College on September 6, 2016. He has been continuously registered with the College ever since.
11. When Mr. Thiessen became a member of the College, he reviewed the College's Code of Ethics (Tab 6 of the Agreed Statement of Facts) and Standards of Practice (Tab 7), copies of which are included in Exhibit #1. These same Code of Ethics and Standards of Practice were in effect at the time the conduct in issue occurred.

12. In January 2017, Mr. Thiessen began employment with Alberta Health Services (“AHS”) as an occupational therapist in Grande Prairie in the area of home care. On January 3, 2018 he commenced a new position, still with AHS, as an occupational therapist on Unit 5 South at the Queen Elizabeth II Hospital in Grande Prairie. Unit 5 is and was, at the time the conduct at issue occurred, an 18 bed unit for acute inpatient psychiatry (the “Unit”).
13. On January 2, 2019 and pursuant to section 57 of the HPA, the College received a letter dated December 20, 2018 from Mr. David Watts, Director, Addictions and Mental Health, Northwest, AHS. This letter notified the College that AHS had terminated the employment of Mr. Thiessen (the “Complaint”). The letter stated that AHS had concluded that Mr. Thiessen had a sexual relationship with a former patient after the former patient was discharged.
14. The College then provided Mr. Thiessen with written notice that he was the subject of a complaint regarding an alleged sexual relationship he had with a former patient from October 7, 2018 to October 29, 2018. Mr. Thiessen was provided with a copy of the December 20, 2018 letter.
15. Ms. Patricia Wheadon, Complaints Director for the College (the “Complaints Director”), subsequently referred the complaint for investigation in accordance with Section 55(2)(d) of the HPA and an investigator was appointed to investigate the Complaint. Mr. Thiessen received notice from the Complaints Director of the investigation in a letter dated January 28, 2019 and notice of the appointment of an investigator by letter dated February 1, 2019.
16. Following completion of the investigation and receipt of the investigation report, the Complaints Director determined that the matter should be referred to the Hearings Director for the College in accordance with Section 66(3)(a) of the HPA. The Notice of Hearing was served on Mr. Thiessen by registered mail on or around May 9, 2019 advising him the hearing into this matter would commence on June 20 and 21, 2019.

**(4) Allegations**

17. The conduct at issue in this hearing is set out in the Notice of Hearing found at Tab 5, Exhibit #1, and is as follows, reflecting the revisions agreed to by both parties noted in paragraph 4 above:

“while employed as an Occupational Therapist at the Queen Elizabeth II Hospital, Alberta Health Services, in Grande Prairie, Alberta:

2. In October and November, 2018 you engaged in an inappropriate relationship with a former patient, AB, shortly after her discharge from the acute inpatient psychiatry unit at the Hospital, which relationship included one or more of the following:

- a. picking AB up from her home and going to a movie with her;
  - b. going to AB's home and watching a movie or movies with her;
  - c. exchanging inappropriate messages with AB over text messages and social media;
  - d. holding AB's hand;
  - e. lying down beside AB;
  - f. kissing AB; and,
  - g. having sexual intercourse or other sexual activity with AB on multiple occasions.
3. In or around October, 2018, you breached Indicator 2.1 of the "Code of Ethics" by engaging in an inappropriate relationship with a former patient, AB, shortly after her discharge from the acute inpatient psychiatry unit at the Hospital, which relationship caused harm to her or the profession."

**(5) Admission of Unprofessional Conduct**

18. Section 70 of the HPA permits an investigated member to make an admission of unprofessional conduct. An admission under section 70 of the HPA must be acceptable in whole or in part to the Hearing Tribunal.
19. Mr. Thiessen acknowledged unprofessional conduct to the two remaining Allegations as evidenced by his signature on the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct, and by his verbal admission to unprofessional conduct described in Allegations #2 and #3 during the hearing on June 20, 2019.
20. Mr. Casey submitted that where there is an admission of unprofessional conduct, the Hearing Tribunal should accept the admission absent exceptional circumstances. Mr. Casey further submitted that there are no exceptional circumstances that should be taken into consideration in this matter.

**(6) Exhibits**

21. The following exhibits were entered with the consent of both parties at the hearing:  
  
Exhibit #1: Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct  
  
Tab 1 Notification of Termination letter for Mr. Thiessen to College;  
Tab 2 Letter dated January 2, 2019 to Mr. Thiessen from the College;  
Tab 3 Letter dated January 28, 2019 to Mr. Thiessen from the College;

- Tab 4 Written Referral to Hearing dated May 9, 2019;
- Tab 5 Notice to Attend a Hearing sent to Mr. Thiessen (revised);
- Tab 6 Code of Ethics for the College
- Tab 7 Standards of Practice for the College
- Tab 8 Copies of text messages between Mr. Thiessen and patient AB;
- Tab 9 Email from Mr. Thiessen to AHS dated February 28, 2019
- Tab 10 Letter to Mr. Thiessen from the College dated January 29, 2019
- Tab 11 HPA definition of “unprofessional conduct” (subsection (pp)).

- Exhibit #2: Joint Submission on Sanction
- Exhibit #3: Comprehensive Occupational Assessment for Professionals (“COAP”)
- Exhibit #4 Written Victim Impact Statement from patient AB
- Exhibit #5 Character References for Christopher Thiessen

**(7) Evidence**

- 22. The evidence was adduced by way of Agreed Statement of Facts, and no witnesses were called to give *viva voce* testimony.
- 23. Following the preliminary matters described in Section (2) of this decision, Mr. Casey presented a verbal summary of the background and events leading up to the investigation into Mr. Thiessen’s conduct, and the decision to refer this matter to a Hearing Tribunal. Mr. Casey reviewed sections 19 to 37 of the Agreed Statement of Facts which describe the interaction and developing personal relationship between patient AB and Mr. Thiessen.
- 24. The following is a summary of the evidence tabled in the Agreed Statement of Facts.
- 25. Patient AB was admitted to the Unit on August 19, 2018, and shortly thereafter participated in a group session led by Mr. Thiessen. Mr. Thiessen continued to provide treatment to patient AB for the next 5 weeks or so, with varying frequency from week to week. Mr. Thiessen’s work with patient AB involved various psychosocial interventions including cognitive restructuring, working with a dietician, and arranging for her to receive counseling in the community through PACE Community Support, Sexual Assault and Trauma Centre both while she was on the Unit and also following her discharge.
- 26. Mr. Thiessen had access to patient AB’s complete file, and was aware of the following regarding patient AB:
  - her admission on the Unit was triggered by a very recent alleged sexual assault;

- she had attempted suicide in the past; and,
  - she had a number of mental health issues including anxiety, depression, suicidal ideation, trauma from sexual assault, an eating disorder, and possibly borderline personality disorder.
27. On October 3, 2018, about six and one half weeks after patient AB was admitted as a patient on the Unit, she was discharged. Mr. Thiessen stopped offering and/or providing treatment to patient AB as of this date. When she was discharged, Mr. Thiessen provided patient AB with his work phone number and email address.
28. On October 3 or 4, 2018, patient AB started following Mr. Thiessen's Instagram account and then Mr. Thiessen started to follow patient AB's Instagram account. They started to exchange messages on Instagram, and exchanged cell phone numbers to enable them to send messages by text and using Snapchat.
29. At this time, they started to meet in person.
30. Other relevant facts are as follows:
- October 6, 2018 – Mr. Thiessen went to patient AB's house to pick her up and take her to a movie, which he paid for. He dropped her off at her home after the movie.
  - October 9 or 11, 2018 – Mr. Thiessen went to patient AB's house and they watched a movie together. When Mr. Thiessen left patient AB's house, he kissed her.
  - October 17, 2018 – Mr. Thiessen again went to patient AB's house and they started watching a movie together. During the movie they lay together on the couch, held hands and kissed, then went to patient AB's bedroom and engaged in sexual intercourse and other sexual activity. At some point prior to having intercourse, patient AB and Mr. Thiessen discussed sex, and patient AB told him she probably would have sex with him but it would be nerve-wracking.
  - October 20 to 25, 2018 – Mr. Thiessen attended a conference in Montreal on mental health. While away, he started to question whether his relationship with patient AB was appropriate.
  - October 26 or 27, 2018 – Mr. Thiessen returned from the conference, went to patient AB's house and they engaged in sexual intercourse and other sexual activity.
  - On or about October 26, 2018 and due to concerns he developed about his relationship with patient AB, Mr. Thiessen discussed his relationship with her with a friend of his who was a registered social worker and clinical supervisor at a local addictions center. They discussed professional boundaries, and from

their conversation, Mr. Thiessen determined that he should end his relationship with patient AB.

- October 29, 2018 – Mr. Thiessen went to patient AB's house in order to end his relationship with her. Instead, he engaged in sexual intercourse and other sexual activity with patient AB.
- October 30, 2018 – Mr. Thiessen communicated with patient AB over Snapchat that they should end their relationship. From October 3-29, 2018 Mr. Thiessen and patient AB communicated daily using social media, and after October 17<sup>th</sup>, started exchanging nude pictures. Much of this communication was using Snapchat, and one feature of Snapchat is that communications can only be viewed for a short period of time before being automatically deleted. Thus, there is no available record of Snapchat exchanges between Mr. Thiessen and patient AB during October 2018.
- November 15 to 21, 2018 – Mr. Thiessen and patient AB exchanged a number of text messages documented in Tab 8 of Exhibit #1.
- Following her discharge from the Unit, patient AB had continued to receive treatment from another therapist, an arrangement which Mr. Thiessen was involved in setting up. In discussion with this other therapist, patient AB came to realize that it was completely inappropriate for Mr. Thiessen to have entered into a relationship with her. The text messages sent to Mr. Thiessen express very personal feelings and the confusion that patient AB was experiencing.
- November 21, 2018, 4:46 PM – Mr. Thiessen emailed April Taylor at AHS stating in part that "I am self-reporting a breach of professional boundaries. I had a personal and intimate relationship with a past-patient (wording redacted) after the patient-therapist relationship was severed. I am committed to being open and transparent about the breach."
- November 21, 2018, 6:18 PM – Mr. Thiessen texted a reply to patient AB stating that "...I have self reported the incident to AHS...". Patient AB texted back "Yeah I did too. Farewell".

31. In summarizing his submission during the hearing Mr. Casey noted that Mr. Thiessen engaged in a personal and sexual relationship with patient AB, the relationship started shortly after the patient was discharged, and Mr. Thiessen engaged in sex with the patient within two weeks of her discharge.
32. Mr. Thiessen was in possession of and used the patient's personal confidential information, and the text messages documented in Tab 8 of Exhibit #1 demonstrate the harm to patient AB as a result.



33. Patient AB was particularly vulnerable at the time, having been a recent victim of an alleged sexual assault and more recently an inpatient on an acute psychiatry unit receiving treatment from Mr. Thiessen. Mr. Casey further stated that it is clear Mr. Thiessen's conduct harms the profession of Occupational Therapy and affects the public's perception of the profession.
34. Ms. Gagnon then addressed the Hearing Tribunal, noting that there is an Agreed Statement of Facts and that Mr. Thiessen is accepting responsibility and admits to the facts set out in the Agreed Statement of Facts.
35. Ms. Gagnon then made reference to an earlier comment suggesting that Mr. Thiessen may have taken advantage of patient AB's vulnerability, stating that this is not a fact admitted to in the Agreed Statement of Facts, and Mr. Thiessen does not agree with this statement. Mr. Thiessen reported himself to his employer after learning of what his ethical responsibility was, which was not clear to him when he commenced the relationship with patient AB.
36. The Hearing Tribunal was also provided with and reviewed Exhibit 4, the Victim Impact Statement from patient AB.

**(8) Decision of the Hearing Tribunal and Reasons**

37. The Hearing Tribunal is faced with a two part task in considering whether an investigated member is guilty of unprofessional conduct. First, the Hearing Tribunal must make factual findings as to whether the alleged conduct occurred. If the Hearing Tribunal finds that the alleged conduct did occur, it must then proceed to determine whether that conduct rises to the threshold of unprofessional conduct under the circumstances.
38. With respect to the first task, the Hearing Tribunal has reviewed the documents included in Exhibit #1 and the submissions of both counsels, as well as Mr. Thiessen's Acknowledgement of Unprofessional Conduct. There is no disputing the facts relating to the events that took place during the relationship between patient AB and Mr. Thiessen between August 19 and November 21, 2018. The Hearing Tribunal finds that the facts support the revised remaining Allegations in the Notice of Hearing.
39. The Hearing Tribunal also accepts Mr. Thiessen's admission of unprofessional conduct based on evidence as set out in the Agreed Statement of Facts and Admission of Unprofessional Conduct as described in Exhibit #1. During the hearing, Mr. Thiessen verbally confirmed his admission of unprofessional conduct as set out in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct. Upon review of the evidence and submissions before it, the Hearing Tribunal did not identify exceptional or other circumstances that would support not accepting the admission of unprofessional conduct from Mr. Thiessen.

40. The revised Notice of Hearing includes Allegation 2 as follows against Mr. Thiessen:

**Allegation 2:** In October and November, 2018 you engaged in an inappropriate relationship with a former patient, AB, shortly after her discharge from the acute inpatient psychiatry unit at the Hospital, which relationship included one or more of the following:

- a. picking AB up from her home and going to a movie with her;
- b. going to AB's home and watching a movie or movies with her;
- c. exchanging inappropriate messages with AB over text messages and social media;
- d. holding AB's hand;
- e. lying down beside AB;
- f. kissing AB; and,
- g. having sexual intercourse or other sexual activity with AB on multiple occasions.

41. The Hearing Tribunal reviewed the Agreed Statement of Facts which includes several statements specifically describing Mr. Thiessen's behavior and interactions with patient AB in paragraphs 19 to 37 inclusive. The Hearing Tribunal accepts the information presented in the Agreed Statements of Fact as proven, and during the hearing on June 20, 2019, Mr. Thiessen verbally admitted to these behaviors. The Hearing Tribunal finds that there is no evidence to mitigate or contradict these statements. Allegation #2 against Christopher Thiessen is found by the Hearing Tribunal to be proven.

**Allegation 3:** In or around October, 2018, you breached Indicator 2.1 of the "Code of Ethics" by engaging in an inappropriate relationship with a former patient, AB, shortly after her discharge from the acute inpatient psychiatry unit at the Hospital, which relationship caused harm to her or the profession.

42. The Hearing Tribunal has considered and accepted Mr. Thiessen's admission to conduct described in Allegation #3 in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct. The facts concerning this Allegation are found to be proven.

43. With respect to the second task, the Hearing Tribunal finds that the conduct admitted to by Mr. Thiessen in Allegations #2 and #3 does meet the threshold for unprofessional conduct as specified in s. 1(1)(pp) of the HPA. In particular, the Hearing Tribunal considered Mr. Thiessen's conduct in relation to the following elements of the definition of unprofessional conduct from the HPA:
- a) Contravention of the Act, a code of ethics or standards of practice;
  - b) Conduct that harms the integrity of the regulated profession.

44. Among other things, the conduct of Mr. Thiessen breached the following principles and standard set out in the College Code of Ethics.

**College Code of Ethics:**

**2. Integrity**

Occupational Therapists shall demonstrate integrity by engaging in honest, fair and equitable interactions. Integrity is indicated by:

2.1 avoiding any activity or relationship which would exploit or cause harm to others or to the profession;

45. Based on the facts presented during the hearing, the Hearing Tribunal finds that Mr. Thiessen did violate Point 2.1 of the College Code of Ethics. Mr. Thiessen engaged in personal and sexual interactions with patient AB immediately following her discharge from an acute psychiatry inpatient unit and while she was continuing to receive treatment from another therapist.
46. Patient AB expressed uncertainty about the nature of their relationship to Mr. Thiessen in text messages.
47. Mr. Thiessen ultimately terminated his relationship with patient AB and self-reported what he described as a breach of professional boundaries to his employer. The Hearing Tribunal finds that Mr. Thiessen's relationship with patient AB did cause harm to patient AB, including as described in several text message exchanges with Mr. Thiessen and did harm the integrity of the Occupational Therapy profession. Mr. Thiessen's actions and conduct do not meet the standard for integrity found in the College Code of Ethics.
48. Mr. Thiessen's actions clearly meet the definition of unprofessional conduct found in Section 1(pp)(ii) of the HPA.

**(9) Joint Submission on Sanction**

49. As reflected in the Joint Submission on Sanction, the Complaints Director and Mr. Thiessen jointly submit and agree that the following penalty orders are appropriate:
1. Mr. Thiessen's practice permit will be suspended for 18 months. He will serve nine months of active suspension starting on September 1, 2019. The remaining nine months of the suspension will be held in abeyance pending compliance with the other parts of this order.
  2. If Mr. Thiessen does not comply with any parts of this order, then the active part of the suspension shall be increased from 9 months to 18 months. In addition, the College's Complaints Director may take action under Section 82(3) of the *Health Professions Act*.
  3. Mr. Thiessen must participate in a multidisciplinary assessment by the Comprehensive Occupational Assessment Program (COAP) or such other program mutually agreed upon by the College Complaints Director and Mr. Thiessen within 3 months of the **earlier of the** date of the Hearing Tribunal's **written or any verbal** decision in this matter. An outline of the COAP was admitted as Exhibit #3 as part of the Joint Submission on Sanction.
    - a) Mr. Thiessen is responsible for the costs of the assessment.
    - b) Before the assessment takes place, the College will send to the assessor, with a copy to Mr. Thiessen, a copy of the investigation report and a copy of the decision of the Hearing Tribunal in this matter.
    - c) Once the assessment is complete, the assessor will provide a written report which will be sent to both Mr. Thiessen and the College. Mr. Thiessen will give his consent to the assessor for the assessor to send a copy of the report directly to the College.
    - d) If the assessor concludes that Mr. Thiessen is not fit to return to practice, his practice permit will continue to be suspended until he is found fit to return to practice, even if the period of suspension has expired.
    - e) If the assessor makes any treatment, education or any other type of recommendations, Mr. Thiessen will fully comply with any and all recommendations and Mr. Thiessen will provide proof to the College that he is complying or has complied with any and all recommendations at the College's request.
    - f) Mr. Thiessen is responsible for any costs associated with complying with the recommendations.

4. Upon his return to practice, Mr. Thiessen will practice under supervision for a period of one year on the following terms:
  - a) Mr. Thiessen will provide the College with the name of his supervisor.
  - b) The supervisor must be approved by the College.
  - c) Mr. Thiessen will provide the supervisor with a copy of the decision of the Hearing Tribunal in this matter.
  - d) The supervisor will provide the College with written confirmation that:
    - i. they have read a copy of the decision of the Hearing Tribunal in this matter; and,
    - ii. if during the one year of supervision, any concerns are raised about Mr. Thiessen's observation or understanding of boundaries, the supervisor will immediately inform the College of those concerns.
5. Mr. Thiessen must pay the costs for the investigation and hearing to a maximum of \$35,000.00. Costs are due on a schedule acceptable to the College's Complaints Director.

**NOTE:** The bold-typed portions of the penalty order 3 above were verbally agreed to by the parties at the hearing as appropriate amendments to the original Joint Submission on Sanctions.

50. Mr. Casey submitted the primary purpose of orders from the Hearing Tribunal is to protect the public. The Hearing Tribunal is cognizant that while the parties have agreed on a joint submission as to sanction, the Hearing Tribunal is not bound by that submission. Nonetheless, as the decision-maker, the Hearing Tribunal should defer to a joint submission unless the proposed sanctions are unfit, unreasonable or contrary to public interest.
51. The nature of this case is very difficult and complex, and these types of cases can lead to protracted contested hearings. Admissions of guilt and joint submissions on penalty avoid this, and witnesses are spared the stress and distress of having to testify. This makes for a better process by engaging the investigated member in considering the outcome.
52. A rejection of a carefully crafted agreement would undermine the goal of fostering cooperation through joint submissions, and may significantly impair the ability of the Complaints Director to enter into such agreements. If the Hearing Tribunal had concerns

with the proposed sanctions, the proper process is to notify the parties, articulate the reasons for concern, and give the parties an opportunity to address the concerns in order to ensure procedural fairness.

**(10) Decision on Penalty and Conclusions of the Hearing Tribunal**

53. As a preliminary comment, the Hearing Tribunal recognizes its orders with respect to sanction must be fair, reasonable and proportionate, taking into account the facts of this case. It is necessary to look at all elements of the proposed sanctions to determine if reasonable, and not focus on just one or two elements.

54. Mr. Casey spoke to the proposed sanctions, noting that:

- The length of the suspension can range between 9 and 18 months, depending on the degree of compliance from Mr. Thiessen.
- The COAP assessment is very important for the protection of the public interest. This is a very vigorous assessment addressing fitness to practice and is a fair means for Mr. Thiessen to return to practice. Mr. Thiessen will bear the full cost of the assessment, estimated at \$8,000.00 to \$10,000.00. Mr. Thiessen must comply with the program, report to the College, and be found fit to return to practice or he is still suspended.
- Return to practice under informed supervision is another layer of protection for the public.
- Hearing and investigation costs for Mr. Thiessen are capped at \$35,000.00. Mr. Thiessen will be out of work in his profession for a minimum of 9 months.

55. Ms. Gagnon submitted that as part of a Joint Submission there is full agreement with the proposed sanctions and made the following comments:

- In terms of the length of suspension, the appropriate range for this is 5 to 12 months, so 9 months is reasonable.
- In terms of the proposed date of September 1, 2019 for the suspension, this was requested by Mr. Thiessen to meet continuity of care requirements as he is currently employed by a private company.
- Mr. Thiessen found Point 2.1 of the Code of Ethics to be ambiguous, which contributed to his misguided view that his conduct was not inappropriate.
- Mr. Thiessen has already been punished by losing a valued position with Alberta Health Services.

56. Ms. Gagnon then introduced into evidence (with the consent of the Complaints Director) seven written character references on behalf of Mr. Thiessen written by a variety of health care professionals and managers. These references were entered as Exhibit #5 and all speak positively about Mr. Thiessen. Ms. Gagnon submitted that Mr. Thiessen was a relatively new graduate (2016) and was naïve in not understanding the power imbalance in his personal relationship with patient AB.

57. The Hearing Tribunal carefully considered the Joint Submission on Sanction. The proposed sanctions are intended primarily to protect the public from the type of conduct that Mr. Thiessen has engaged in. In making its decision on sanction, the Hearing Tribunal considered a number of factors identified in the *Jaswal v. Newfoundland Medical Board* [1986] NJ No 50 (NLSC-TD) case, specifically the following:

- **The nature and gravity of the proven Allegations.** – This was an aggravating factor as Mr. Thiessen’s conduct resulted in harm to patient AB, and undermined the integrity of his profession.
- **The age and experience of the investigated member.** – This was a neutral factor since Mr. Thiessen was 31 years old at the time, and was a recent graduate (2016) with limited experience.
- **The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions.** – This was a neutral factor since there were no prior incidents or complaints involving Mr. Thiessen, and seven character references were introduced during the discussion on sanctions.
- **The age and mental condition of the victim, if any.** – This was an aggravating factor since patient AB was a young woman who was recently a victim of an alleged sexual assault. She was also an inpatient on an acute psychiatry unit receiving treatment from Mr. Thiessen just prior to entering into a personal relationship with him initiated by him contacting her.
- **The number of times the offending conduct was proven to have occurred.** – This was an aggravating factor since Mr. Thiessen and patient AB engaged in intimate relations on a number of occasions between October 17 and October 29, 2018.
- **The role of the investigated member in acknowledging what occurred.** – This was a mitigating factor since Mr. Thiessen submitted he was unclear as to his ethical situation, consulted with a fellow professional, and on November 21, 2018 self-reported his conduct to his employer. Ultimately, Mr. Thiessen did acknowledge his unprofessional conduct

- **Whether the investigated member has already suffered other serious financial or other penalties as a result of the Allegations having been made.** – This was a mitigating factor as Mr. Thiessen was terminated from his position with Alberta Health Services.
  - **The impact of the incident(s) on the victim.** – This was an aggravating factor. Patient AB attended the hearing in person and a Victim Impact statement written by her was an exhibit and was considered during the submissions on sanctions (Exhibit #4). In her statement, patient AB states she felt used, is tired and angry, and every day is a struggle for her.
  - **The presence or absence of any mitigating circumstances.** – As noted above in this decision.
  - **The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice.** – See comments below.
  - **The need to maintain the public’s confidence in the integrity of the profession.** – This was an aggravating factor in that any failure of a regulated member to practice and act with integrity will undermine public confidence in the profession for all members.
  - **The range of sentence in other similar cases.** – The Hearing Tribunal considered the case law provided to it.
58. It is important to the profession of Occupational Therapists to maintain the Code of Ethics and Standards of Practice, and in doing so to promote specific and general deterrence and, thereby, to protect the public.
59. The Hearing Tribunal has considered this in the deliberation of this matter, and again considered the seriousness of Mr. Thiessen’s actions. The sanctions ordered in this case are intended, in part, to deter Mr. Thiessen from engaging in similar or any other unprofessional conduct in the future. Having his permit to practice suspended for a minimum of 9 months, having to complete the COAP assessment, and incurring significant financial costs will collectively serve as a deterrent to Mr. Thiessen, and will address any ambiguity he may feel towards the Code of Ethics.
60. In addition, the sanctions will demonstrate to the profession that actions and unprofessional conduct such as this are not tolerated, and will in part, act as a deterrent to others in this profession.
61. After considering the proposed orders for penalty, The Hearing Tribunal finds the Joint Submission on Sanction is appropriate, reasonable and consistent with the public interest, and therefore accepts the Joint Submission on Sanction as proposed.




**(11) Orders of the Hearing Tribunal**

62. The Hearing Tribunal is authorized under s. 82(1) of the HPA to make orders in response to findings of unprofessional conduct. The Hearing Tribunal makes the following orders pursuant to section 82 of the HPA:
1. Mr. Thiessen's practice permit will be suspended for eighteen (18) months. He will serve nine (9) months of active suspension starting on September 1, 2019. The remaining nine (9) months of the suspension will be held in abeyance pending compliance with the other parts of this order.
  2. If Mr. Thiessen does not comply with any parts of this order, then the active part of the suspension shall be increased from nine (9) months to eighteen (18) months. In addition, the College Complaints Director may take action under Section 82(3) of the HPA.
  3. Mr. Thiessen must participate in a multidisciplinary assessment by the Comprehensive Occupational Assessment Program (COAP) or such other program mutually agreed upon by the College Complaints Director and Mr. Thiessen within three (3) months of the earlier of the date of the Hearing Tribunal's written or any verbal decision in this matter.
    - a) Mr. Thiessen is responsible for the costs of the assessment.
    - b) Before the assessment takes place, the College will send to the assessor, with a copy to Mr. Thiessen, a copy of the investigation report and a copy of the decision of the Hearing Tribunal in this matter.
    - c) Once the assessment is complete, the assessor will provide a written report which will be sent to both Mr. Thiessen and the College. Mr. Thiessen will give his consent to the assessor for the assessor to send a copy of the report directly to the College.
    - d) If the assessor concludes that Mr. Thiessen is not fit to return to practice, his practice permit will continue to be suspended until he is found fit to return to practice, even if the period of suspension has expired.
    - e) If the assessor makes any treatment, education or any other type of recommendations, Mr. Thiessen will fully comply with any and all recommendations and Mr. Thiessen will provide proof to the College that he is complying or has complied with any and all recommendations at the College's request.
    - f) Mr. Thiessen is responsible for any costs associated with complying with the recommendations.

4. Upon his return to practice, Mr. Thiessen will practice under supervision for a period of one year on the following terms:
  - a) Mr. Thiessen will provide the College with the name of his supervisor.
  - b) The supervisor must be approved by the College.
  - c) Mr. Thiessen will provide the supervisor with a copy of the decision of the Hearing Tribunal in this matter.
  - d) The supervisor will provide the College with written confirmation that:
    - i. they have read a copy of the decision of the Hearing Tribunal in this matter; and,
    - ii. if during the one year of supervision, any concerns are raised about Mr. Thiessen's observation or understanding of boundaries, the supervisor will immediately inform the College of those concerns.
5. Mr. Thiessen must pay the costs for the investigation and hearing to a maximum of \$35,000.00. Costs are due on a schedule acceptable to the College's Complaints Director.
63. The Hearing Tribunal believes these orders for sanction adequately balance the *Jaswal* factors referred to above, and are consistent with the overarching mandate of the Hearing Tribunal, which is to ensure that the public and public interest are protected.
64. The Hearing Tribunal would like to acknowledge patient AB for having the courage to appear and sit through the hearing to express herself through a written victim impact statement. Members of the Hearing Tribunal wish to thank her for her presence and wish her well for the future.

DATED THE 8<sup>th</sup> DAY OF AUGUST, 2019 IN THE CITY OF EDMONTON, ALBERTA.

  
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James Lees, Public Member  
Chair, Hearing Tribunal