

**IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL BY THE ALBERTA  
COLLEGE OF OCCUPATIONAL THERAPISTS into the conduct of Gokul Pathak,  
Registration #5192,  
pursuant to the *Health Professions Act*, RSA 2000 c H-7**

**FINDINGS DECISION  
OF THE HEARING TRIBUNAL**

**I. Hearing**

- [1] This hearing was conducted virtually pursuant to the *Health Professions Act* (the “HPA”) on November 27 and 28, 2023 with the following persons participating:

Hearing Tribunal (the “Hearing Tribunal”)

Doug Dawson, Chair and Public Member  
Adam Kucharski, Regulated Member  
Nicole Morin, Public Member  
Patricia Hull, Public Member

Blair E. Maxston, K.C., Independent Legal Counsel to the Hearing Tribunal

The Alberta College of Occupational Therapists (the “College”)

Anna Yarmon, Complaints Director

Kimberly Precht, Legal Counsel for the Complaints Director

The Member

Gokul Pathak

Michael Sparks, Legal Counsel for the Member

**II. Preliminary Matters**

- [2] The Chair provided opening comments. There was no application to hold the hearing in private. Therefore, the hearing was open to the public.
- [3] None of the Hearing Tribunal members identified a conflict of interest. There were no objections by the parties concerning the composition or jurisdiction of the Hearing Tribunal.

**III. Allegations**

- [4] The allegations in the September 18, 2023 Notice of Hearing and Notice to Attend as Witness are:
1. On or about May 28, 2020, you shared one or more videos depicting child pornography as defined under section 163.1(1) of the *Criminal Code of Canada* (“child pornography”) with your spouse via Facebook Messenger.

2. On or about August 6, 2020, you shared a video depicting child pornography with your spouse via Facebook Messenger.
3. At one or more points between April 1, 2019, and November 15, 2020, you possessed child pornography on personal devices, particulars of which include any or all the following:
  - a. Two unique pictures depicting child pornography contained on a Nexus 7 Tablet Model K008 in your possession.
  - b. Three unique videos and fifty-eight unique pictures depicting child pornography contained on a Dell Inspiron N4030 Laptop in your possession.

IT IS FURTHER ALLEGED THAT your conduct constitutes “unprofessional conduct” as defined in s. 1.1(pp)(ii) and (xii) of the HPA, in particular:

1. Your conduct contravenes Code of Ethics: Principle 2.1; and
2. Your conduct harms the integrity of the regulated profession.

#### **IV. Exhibits**

- [5] The following document was entered as an exhibit at the hearing with the consent of both parties:
1. Partial Agreed Statement of Facts (including Notice of Hearing and Notice to Attend as Witness) (the “Partial ASF”).

#### **V. Opening Statements**

##### **(a) The Complaints Director**

- [6] Ms. Precht’s opening statement can be summarized as follows.
- [7] Ms. Precht reviewed the charges, the flagging of Mr. Pathak’s Facebook account, the withdrawal of the criminal charges, the Complaints Director’s investigation and the background matters in the Partial ASF.
- [8] Although no patients were involved, Mr. Pathak’s conduct harms the integrity of the profession and breaches section 2.1 of the Code of Ethics and falls within the definition of unprofessional conduct in the HPA.
- [9] The onus of proof is on the Complaints Director to prove the facts on a balance of probabilities and to prove that they rise to the level of unprofessional conduct.
- [10] There were no criminal convictions relating to Mr. Pathak and the Hearing Tribunal cannot attach any significance to the fact that criminal charges regarding Mr. Pathak were withdrawn. The allegations in these proceedings are separate. Ms. Precht reviewed the witness credibility factors, including those in the *Faryna* case.

[11] Two things need to be proven here. First, in terms of allegations 1 and 2, did the videos depict child pornography? Second, did Mr. Pathak share them with his spouse via Facebook Messenger?

[12] Second, in terms of allegation 3 the Partial ASF establishes that there was child pornography on two of Mr. Pathak's personal devices but the Hearing Tribunal must determine whether Mr. Pathak was in possession of that child pornography, bearing in mind that "possession" is a factual finding.

[13] Ms. Precht reviewed the scope of the Partial ASF and the procedural history of the complaint at paragraphs 4 to 9 of that document as follows:

- Mr. Pathak self-reported to his employer when he was criminally charged with possession and distribution of child pornography. The employer notified the College of that.
- The College commenced an investigation but it was paused until the criminal proceedings were concluded. During that time, Mr. Pathak voluntarily undertook not to practice.
- The criminal charges against Mr. Pathak were withdrawn and there were no convictions regarding the criminal charges.
- In the summer of 2022 Mr. Pathak returned to practice as an occupational therapist.
- The HPA Part 4 investigation regarding these matters was completed. As part of that process, HPA section 65 interim conditions were placed on Mr. Pathak's practice permit.
- Mr. Pathak came from [REDACTED] to Canada as a student in September 2016 and is currently a permanent resident of Canada.
- In [REDACTED] he was in [REDACTED] for six weeks to be married to his wife, [REDACTED].
- In 2019, Mr. Pathak began working as an occupational therapist at the [REDACTED] in [REDACTED] and that is where he was working when the alleged events occurred.
- Paragraphs 13 to 15 of the Partial ASF describe Facebook Messenger and Facebook's monitoring of direct messages.
- On August 23, 2020, Facebook submitted a cyber tip to the National Centre for Missing and Exploited Children ("NCMEC") indicating that on May 28, 2020 and August 6, 2020 there had been a Facebook profile used to upload and distribute videos that met threshold as being child pornography.
- The NCMEC determined that the IP address used to upload and distribute the videos was in [REDACTED], Alberta. That information was forwarded to the Northern Alberta Internet Child Exploitation Unit ("NAICE") who investigated it.

- Paragraphs 16 to 27 of the Partial ASF set out findings from the Northern Alberta Internet Child Exploitation Unit's investigation.
- The images in the videos are uncomfortable and disturbing and are clearly child pornography.
- Paragraph 18 of the Partial ASF speak to videos #1 and #2 being uploaded and distributed on Facebook on May 28, 2020. The videos were sent at 6:28 p.m. mountain daylight time on May 28, 2020. The username for the distribution was [REDACTED] to [REDACTED] and the Facebook user [REDACTED] had an IP address in [REDACTED]. Telus Communications owned and assigned that IP address which was used to upload and send the two videos.
- Paragraph 19 addresses video #3 which was uploaded and distributed on August 6, 2020 at 12:30 p.m. mountain daylight time. The direct message was from [REDACTED] to two recipients, [REDACTED] and [REDACTED]. The same [REDACTED] IP address belonging to Telus was used.
- Paragraph 20 of the Partial ASF explains what an IP address is and what an ISP (internet service provider) is. Telus is an ISP and it assigns a subscriber an IP address. IP stands for internet protocol. The internet protocol is assigned to one subscriber at one time. This means that it is possible for an internet service provider to identify a specific subscriber and address that are associated with an IP address at a particular date and time.
- As per paragraph 20 of the Partial ASF, the IP address doesn't let the internet service provider identify the specific device used to send information but it does pin down a specific subscriber and address associated with that IP address. As the result of the NAICE search warrant, a tablet and laptop were seized, both of which contained pictures and images that were child pornography.
- Paragraph 22 refers to sixty unique pictures and three unique videos that unambiguously meet the definition of child pornography.
- The IP address assigned to Mr. Pathak's router was the same IP address that had been used to upload and send videos 1, 2 and 3. The same IP address was used on May 28 and August 6, 2020.
- Mr. Pathak's router was broadcasting as a password-protected Wi-Fi network so it wasn't an open Wi-Fi network that anybody could get into.
- Paragraph 25 of the Partial ASF sets out that both the tablet and the laptop were password protected and the Facebook profile [REDACTED] was in the internet browser history on the laptop and that matched the Facebook profile that had been used to send all three videos.
- During Mr. Pathak's November 15, 2020 interview with the police after his arrest he confirmed that [REDACTED] is his Facebook profile and that [REDACTED] is his wife's Facebook profile. Mr. Pathak also confirmed that he lived alone at the address where the search warrant had been executed and that all of the devices in the apartment belonged to him.

- Mr. Pathak informed the police that he had sent his wife an intimate video that he took of them after their wedding at her request and he denied having any child pornography on his laptop.
- Per paragraphs 28 and 29 of the Partial ASF, Mr. Pathak was working at the [REDACTED] [REDACTED] on May 28 and August 6, 2020 on full shifts from 8 in the morning until 4:15 p.m.
- The distance between Mr. Pathak's apartment and the [REDACTED] is about 700 meters and it is about a nine-minute walk from his residence to his place of work.

(b) Mr. Pathak

[14] Mr. Sparks' opening submissions on behalf of his client can be summarized as follows.

[15] Mr. Pathak has chosen to give evidence to the Hearing Tribunal because he wants you to have all information to base your decision on. You have to scrutinize the evidence before you with care.

[16] Mr. Sparks reviewed Mr. Pathak's expected testimony to elaborate on the Partial ASF including his living situation in 2020, the apartment building he resided at, his acquaintances and other people who had access to his electronics, his wireless internet and the Facebook account and other persons access to that account.

[17] Mr. Pathak will testify that he had no knowledge of the child pornography and that he never sent videos of child pornography using his Facebook account to anyone.

[18] In terms of the issue of possession, the legal definition of "possession" has to include knowledge. If Mr. Pathak didn't know there was child pornography on his devices then he is not in legal possession of that child pornography.

**VI. Witnesses**

[19] Mr. Pathak testified. No other witnesses were called to testify.

[20] The key parts of Mr. Pathak's testimony can be summarized as follows.

(a) Direct Examination

[21] Mr. Pathak reviewed his personal background, including his marital status and the residence he resided at while in [REDACTED] from 2009 to 2023 and that there were more than fifteen students residing in that residence.

[22] From 2014 to 2016 Mr. Pathak stayed in a hostel in [REDACTED] in the [REDACTED] with thirty or thirty-five other people.

[23] Mr. Pathak resided in an apartment in a three-storey building in [REDACTED] in 2020. His apartment was 700 or 800 meters from his place of work, [REDACTED]. It would take him 10 to 15 minutes or so to walk from his apartment to his job.

- [24] People would come and hang out at his apartment, including [REDACTED] and [REDACTED]. Both individuals had access to a key to Mr. Pathak's apartment.
- [25] Mr. Pathak's shifts at the [REDACTED] would be from 8:00 a.m. until 4:15 p.m. with a lunch hour that usually occurred from 12:00 p.m. to 1:00 p.m. but that fluctuated.
- [26] Mr. Pathak usually ate lunch at [REDACTED] but sometimes would go home for lunch.
- [27] Mr. Pathak won the tablet in 2010 or 2011 as a contest prize when he was living in [REDACTED]. Other people where he resided had access to the tablet. Other people knew the password since it was like a public laptop or a public tablet.
- [28] Mr. Pathak obtained the laptop in 2010 or 2011. Friends and other people had access to the laptop.
- [29] Both devices went to [REDACTED] with Mr. Pathak and other people had access to them, his roommate and other people staying the hostel there.
- [30] Mr. Pathak obtained his wireless network in June of 2019. People who stayed in his apartment building and visited him would use his Wi-Fi connection.
- [31] [REDACTED] name was displayed in his Facebook Messenger account. Her username was [REDACTED] or [REDACTED]. Mr. Pathak's Facebook account had a password but it was auto login. People who came over to his apartment accessed his Facebook account by scrolling through it.
- [32] On the advice of his lawyer, when he was interviewed by the police, he did not let the police have his biometrics or password on his cellphone. He was traumatized during the interview and didn't know what to do.
- [33] Mr. Pathak was not familiar with, had not seen and did not upload or send the child pornography videos using his Facebook account.
- [34] Mr. Pathak did not know that any of the child pornography images were on his tablet or his laptop.

(b) Cross Examination

- [35] Ms. Precht's cross examination of Mr. Pathak can be summarized as follows.
- [36] Ms. Precht reviewed Mr. Pathak's personal background.
- [37] When Mr. Pathak was interviewed by the police on November 15, 2020 he said that he did not share his Facebook account with anyone. Other people used his smartphone to scroll through his Facebook page postings. He knew that friends might be scrolling through the public Facebook page or his Tik Tok account.
- [38] Mr. Pathak did not give his password for his phone to his friends.
- [39] Mr. Pathak's interview with the police was two and a half hours, was not rushed and he had time to answer questions but it all happened all of a sudden because he was sleeping when the police came to his door.

- [40] During the police interview he provided an explanation to the police regarding the apartment keys and locks and access to the apartment by a housekeeper or building maintenance who had a key. During the police investigation Mr. Pathak indicated that there was one time when something unusual occurred unlocking his door but during his cross examination he stated that occurred two or three times.
- [41] Mr. Pathak advised the College's investigator about issues with locking the door occurring only once.
- [42] When Mr. Pathak spoke to the police he didn't say that anybody else had a key to his apartment.
- [43] When he was interviewed by the College's investigator Mr. Pathak didn't talk about [REDACTED] at all and didn't talk about giving his key to anyone else and the hearing was the first time that Mr. Pathak told that to the College.
- [44] Mr. Pathak had an opportunity to tell the College's investigator anything he thought was important about the complaint.

(c) Hearing Tribunal Questions of Mr. Pathak

- [45] Mr. Pathak's answers to questions from the Hearing Tribunal can be summarized as follows.
- [46] Mr. Pathak did not have an explanation about who might be responsible for sending the videos and why they would have done that. There were other people who had access to his apartment and his home Wi-Fi.
- [47] Mr. Pathak didn't have any guess about why someone had directed the material and sent it to his wife specifically.
- [48] Mr. Pathak's friends have shared access to his devices and social media even though those persons have their own social media accounts or devices. In [REDACTED] culture it is hard to say to someone that they shouldn't use your phone and stop scrolling through it.
- [49] Friends had access to his phone and all of his passwords for his devices and it was an easy password and the same password for all of his accounts.
- [50] Mr. Sparks conducted a brief re-examination of Mr. Pathak and Ms. Precht conducted a brief re-cross examination of Mr. Pathak. In re-cross examination Mr. Pathak stated that he advised the police about his Facebook history and activity but he did not provide that information to the College.

**VII. Closing Submissions**

(a) Complaints Director

- [51] The Complaints Director's closing submissions can be briefly summarized as follows.
- [52] The first and second allegations are related and there is ample evidence to conclude, on a balance of probabilities that they are proven.

- [53] Quite a few undisputed facts related to those allegations provide clear answers to four questions being what was sent, how was it sent, where was it sent from and when was it sent?
- [54] In terms of the first question, the three videos are unequivocally child pornography.
- [55] In terms of how it was sent, the Partial ASF makes it very clear that they were sent via Facebook Messenger from Mr. Pathak's Facebook account to his wife's Facebook account.
- [56] In terms of where it was sent from, in terms of the August 6 event it is certain that the videos were sent from the IP address belonging to Mr. Pathak's router since Telus was able to confirm that.
- [57] In terms of the May 28 occasion, Telus no longer had a record of who the IP address was assigned to at that exact time but the likelihood that the videos were also sent from Mr. Pathak's IP address router is high.
- [58] In terms of when it was sent, videos #1 and #2 were sent at 6:28 p.m. on Thursday, May 28, 2020 and video #3 was sent at 12:36 p.m. mountain daylight time on Thursday, August 6, 2020.
- [59] The real question is who sent the videos. Undisputed facts regarding this question are Mr. Pathak's work hours and the ten to fifteen minute walk from his apartment to his work. On both occasions that the videos were sent it was at a time when it was completely plausible that Mr. Pathak was at home and able to send them through his router. There is nothing in the timing that should make a person say it must have been somebody else.
- [60] At no time during the police interview or the College investigator interview did Mr. Pathak say anything about having given the key to his apartment to anyone else. The first time he said that was during the first day of the hearing. Mr. Pathak has suggested that a man down the hall who has no reason to hurt him used his key to come into his apartment without him knowing, accessed his phone and sent heinous videos of child pornography from Mr. Pathak's Facebook account to his wife's Facebook account and not to anyone else and that this happened twice on both occasions at times when Mr. Pathak very plausibly could have been at home.
- [61] The Partial ASF establishes that the videos were sent from Mr. Pathak's Facebook account to his wife's Facebook account via Facebook Messenger.
- [62] Mr. Pathak has suggested that his Wi-Fi signal was very strong and that perhaps a neighbor or friend could somehow have gotten on his Facebook account from outside his apartment and sent the videos from his account to his wife's account. That is just speculation and, having read the detailed description of those videos, that would be an incredibly malicious thing to do to someone.
- [63] Despite Mr. Pathak testifying about seeing his friends scrolling through his various social media apps on his phone (including Facebook), while they were at his residence, he also testified that he does not share his Facebook account and he didn't think that his friends used his Facebook account. That is consistent with what he told the police.



- [64] In terms of internal inconsistency, Mr. Pathak's evidence at the hearing was different from the statements he provided earlier to the police and the College's investigator. He came up with a new explanation at the hearing that he had not provided before and that was a desperate explanation.
- [65] The most important factor in this case is the plausibility of the evidence. Is the version of events you heard from Mr. Pathak plausible or probable? The alternative explanation provided by Mr. Pathak strains one's sense of reality, it is not plausible.
- [66] The evidence as a whole supports the conclusion that it is more likely than not that Mr. Pathak sent the videos to his wife.
- [67] There is not enough evidence to find allegation #3 proven on a balance of probabilities but a decision about that is up to the Hearing Tribunal.
- [68] If the allegations are factually proven, there is no difficulty in concluding that they fall within the definition of unprofessional conduct in the HPA and also breach the College's Code of Ethics.
- [69] Caselaw provided by the Complaints Director points out that the mere possession of child pornography encourages and sustains the child pornography industry. Possession of child pornography is itself child abuse because children are revictimized every time their image is shown.
- [70] If the Hearing Tribunal finds any of the allegations against Mr. Pathak are factually proven then his private conduct cannot be condoned as it undermines the public's confidence in the profession.
- (b) Mr. Pathak
- [71] Mr. Sparks' closing submissions on behalf of his client can be summarized as follows.
- [72] Child pornography is horrendous and harmful and Mr. Pathak will not argue otherwise. Possessing or distributing this material would be unprofessional conduct but he did not send the videos and he did not know that material was on his tablet or laptop.
- [73] The three videos depicting child pornography were sent out on an IP address registered to Mr. Pathak. Paragraph 20 in the Partial ASF states that an IP address does not allow an internet service provider to identify the specific device, such as a laptop, tablet or phone, from which the information was sent.
- [74] Mr. Pathak's IP address was accessed using his password protected Wi-Fi signal at the date and time in the Partial ASF but you don't know where it was accessed from and you don't know what was used to access it and you don't know who accessed it.
- [75] Paragraphs 18, 19 and 27 in the Partial ASF allow you to safely conclude that it was Mr. Pathak's Facebook account that was used but it does not tell you who used it.

- [76] Pursuant to paragraph 28 of the Partial ASF, Mr. Pathak was in [REDACTED] when the videos were sent out but that paragraph does not tell you whether he was within distance to access the Wi-Fi and does not tell you who was pushing the buttons to send the videos. Mr. Pathak's Wi-Fi signal is not contained within the physical confines of his apartment and it is plausible that anybody could access his Wi-Fi signal if they had his password to it. Mr. Pathak's evidence is that the password located for the Wi-Fi signal is right on the router and is accessible to anybody who came into his apartment. He gave evidence that he would share that password with anybody that came to his apartment.
- [77] The auto login feature on his Facebook account meant that his wife's name would automatically come up.
- [78] The contradictions in information offered at earlier times are explained by the fact that being in police custody is traumatic and that he was following the advice of his lawyer. Privacy in Canada is very different from the privacy in the [REDACTED] culture where Mr. Pathak is from. It is hard to say to a guest that you can't do that and it was normal for him to allow guests to use his phone to look through his account.
- [79] Mr. Pathak gave honest answers and did not take the opportunity to blame anyone else. For whatever reason someone who had access to Mr. Pathak's Facebook account sent videos to his wife by direct message. Mr. Pathak does not have to offer a reason for why they did that.
- [80] Is there any clear evidence that Mr. Pathak sent the videos to his spouse? The allegations force you to assume that just because a username belongs to Mr. Pathak it was him pushing the send buttons and that his spouse is on the other end receiving them. It doesn't make common sense to send those kinds of images to your spouse that you just recently married.
- [81] With regard to the last allegation, the Complaints Director's counsel has conceded that there is no clear evidence that would support this. Legal possession involves knowledge.

### **VIII. Findings Decision**

- [82] The Hearing Tribunal acknowledged that there is only one standard of proof in civil proceedings such as this: proof on a balance of probabilities. Accordingly, the Hearing Tribunal is tasked with determining whether it is more likely or not that the conduct occurred as alleged. Furthermore, the Complaints Director has the burden of proof to prove that facts occurred on a balance of probabilities and to then establish that proven facts rise to the level of unprofessional conduct as defined in the HPA.
- [83] The Hearing Tribunal accepted that, for the purposes of this hearing, it should not place any significance on the criminal charges since they were withdrawn.
- [84] For the reasons that follow in this decision, the Hearing Tribunal makes the following findings:
- Allegation 1 - Guilty
  - Allegation 2 - Guilty
  - Allegation 3 – Not Guilty

**IX. Assessment of Mr. Pathak's Testimony**

[85] The Hearing Tribunal recognized that it was responsible for assessing the credibility of Mr. Pathak when he testified at the hearing. Among other things, the Hearing Tribunal applied the following factors in that regard:

- Appearance or demeanor.
- Ability to perceive.
- Ability to recall.
- Motivation.
- Probability or plausibility.
- Internal consistency.
- External consistency.

[86] The Hearing Tribunal provides the following overall assessment of Mr. Pathak's testimony.

[87] The Hearing Tribunal had significant concerns about Mr. Pathak's demeanor when he testified and the manner in which he responded to questions. The Hearing Tribunal was of the view that Mr. Pathak did not display an expected level of concern or even frustration and anger having regard to the seriousness of the allegations including the effect they would have on his personal and professional reputation. Mr. Pathak's responses were at various times matter of fact or casual despite the egregious nature of the allegations.

[88] The Hearing Tribunal also had concerns regarding the numerous inconsistencies in Mr. Pathak's testimony. Those inconsistencies included:

- Inconsistencies between Mr. Pathak's statements to the police, to the College's investigator and to the Hearing Tribunal regarding the keys to his apartment and who had access to his apartment.
- During his interview with the College's investigator Mr. Pathak did not refer to [REDACTED] and did not mention giving his apartment key to anyone else. The first time that Mr. Pathak provided that information was at the Hearing.

[89] The contradictions in Mr. Pathak's testimony cannot be explained simply by the fact that being interviewed by the police was traumatic and that he was following the advice of his lawyer at that time. During the College investigation process and his interactions with the College's investigator, Mr. Pathak had more than sufficient time to provide fulsome and complete information and explanations. Providing new information and explanations at the Hearing itself for the first time that were different from or inconsistent with prior comments made by Mr. Pathak seriously harmed his credibility in the eyes of the Hearing Tribunal.

- [90] There was compelling internal inconsistency in terms of Mr. Pathak's evidence at the Hearing as opposed to statements he provided previously to the police and the College's investigator. The contradictions in these explanations seriously negatively affected Mr. Pathak's credibility.
- [91] The Hearing Tribunal also found that Mr. Pathak's testimony was at times evasive and that he failed to answer or fully answer direct questions asked by the Complaints Director's legal counsel during her cross examination of Mr. Pathak. This diminished Mr. Pathak's credibility.
- [92] Very importantly, the Hearing Tribunal had fundamental concerns with respect to the plausibility and probability of the version of events that Mr. Pathak testified to. The reasons regarding allegations 1 and 2 later in this decision comment further on this, however, the Hearing Tribunal was very troubled by the fact that Mr. Pathak did not change his password protections and protocols after the first video was sent. There is also no evidence that Mr. Pathak took any steps to properly secure his devices after the first video was transmitted. As well, after the first video was sent, Mr. Pathak was still gathering with people who had common access to his devices. As well, he and his wife were apparently continuing to use Facebook Messaging. Those acts were inconsistent with the seriousness of the allegations and sending of messages to his wife that contained child pornography.
- [93] On a balance of probabilities and after considering all of the evidence, for allegations 1 and 2 the Hearing Tribunal made a finding of fact that Mr. Pathak sent the videos to his wife.

(a) Analysis and Reasons Regarding Allegations 1 and 2

- [94] The Hearing Tribunal concluded that the Partial ASF clearly established that there was child pornography on Mr. Pathak's laptop and tablet. There was also undisputed evidence that the IP address assigned to Mr. Pathak's router was the same IP address that had been used to upload and send the videos in question on May 28 and August 6, 2020.
- [95] The evidence before the Hearing Tribunal (including Mr. Pathak's own testimony) established that he lived in an apartment that was 700 to 800 meters from his place of work at [REDACTED] and that it would take him approximately ten to fifteen minutes to walk from his apartment to his job. The evidence was also clear that when the videos were sent Mr. Pathak could have had time to be at his apartment.
- [96] The Hearing Tribunal agreed with the Complaints Director that on both occasions the videos were sent it was completely plausible that Mr. Pathak was at home and was able to send them through his router. Also, the Partial ASF established that the videos were sent from Mr. Pathak's Facebook account to his wife's Facebook account via Facebook Messenger.
- [97] In summary, the totality of the evidence supported the finding that Mr. Pathak sent the videos to his wife. That included the following evidence:
- The tablet and laptop were owned by Mr. Pathak.
  - The Partial ASF (including paragraphs 18 to 19) established that the IP address assigned to Mr. Pathak's router was the same IP address that had been used to upload and send the videos and that same IP address was used on May 28 and August 6, 2020.

- It was possible for Mr. Pathak to be at his apartment when the videos were sent on May 28 and August 6, 2020. The distance between Mr. Pathak's apartment and [REDACTED] is approximately 700 to 800 meters and it would take only ten to fifteen minutes for Mr. Pathak to walk to his apartment.

[98] The Hearing Tribunal carefully considered Mr. Pathak's submission that his WiFi signal was strong enough that it was possible for a neighbor or friend to access his Facebook account from outside his apartment and send the videos from his account to his wife's account. The Hearing Tribunal found that was mere speculation. The Hearing Tribunal agreed with the Complaints Director that sending the videos would be an incredibly malicious action and there were no facts offered by Mr. Pathak to reasonably or plausibly support his position that someone else sent the videos.

[99] Additionally, the assertion that the videos were sent by someone other than Mr. Pathak assumes deliberate intent to send highly troubling videos to Mr. Pathak's wife which would quite reasonably be expected to have a huge adverse impact on his marriage. The Hearing Tribunal found that it was implausible that someone would take these highly malicious steps on two distinctly separate random occasions that were separated by just over two months.

[100] Although Mr. Pathak testified that other persons could access his WiFi signal since he had not kept his password private, in the Hearing Tribunal's view it was not believable and was implausible that an individual would send such troubling videos to Mr. Pathak's wife on two separate occasions. The assertions made by Mr. Pathak in that regard were speculation and stood in stark contrast to various elements of the Partial ASF which supported a finding of fact that it was Mr. Pathak who sent the videos to his wife by Facebook Messenger.

[101] In summary, the alternative explanation provided by Mr. Pathak strains one's sense of reality, is not plausible and was not accepted by the Hearing Tribunal. The totality of the evidence supported the conclusion that Mr. Pathak sent the videos to his wife.

[102] The Hearing Tribunal acknowledged Mr. Pathak's testimony and the comments from his lawyer that privacy in Canada is very different from privacy in the [REDACTED] culture where Mr. Pathak comes from. The Hearing Tribunal accepted Mr. Pathak's testimony in that regard, however, the different privacy culture in [REDACTED] is not in and of itself determinative of the key question about whether it was Mr. Pathak who sent the videos via Facebook Messenger to his wife. Even if other persons had access to Mr. Pathak's WiFi it requires an altogether different analysis to conclude that one of those persons sent child pornography to Mr. Pathak's wife using his Facebook Messenger account. For the reasons mentioned above, reaching that conclusion is untenable and implausible.

[103] In addition to finding that the facts supporting allegations 1 and 2 were proven, the Hearing Tribunal unanimously concluded that they rise to the level of unprofessional conduct as defined in the HPA. The proven actions of Mr. Pathak clearly harmed the integrity of the profession in the eyes of the public, were inconsistent with the position of trust that a healthcare provider occupies and were extremely troubling in terms of the exploitation of children. Anytime child pornography is viewed, it re-victimizes the children involved and represents continued abuse of those children.

[104] Mr. Pathak's actions are inconsistent with the College's Code of Ethics Principle 2.1 and, again, constitute unprofessional conduct pursuant to the HPA.

(b) Allegation 3

[105] After carefully considering all of the evidence before it, the Hearing Tribunal concluded that there was insufficient evidence to prove the facts relating to allegation 3 on a balance of probabilities.

**X. Concluding Comments Regarding Allegations**

[106] The Hearing Tribunal finds that Mr. Pathak committed unprofessional conduct regarding allegations 1 and 2. The Hearing Tribunal also finds that there is insufficient factual evidence to support allegation 3 and dismisses it.

[107] The Hearing Tribunal asks that the parties consult and determine the manner in which submissions on penalty will be provided to it regarding the two findings of unprofessional conduct.

Signed on behalf of the Hearing Tribunal this 14 day of February, 2024.

A handwritten signature in black ink, appearing to read 'Doug Dawson', written over a horizontal line.

Doug Dawson, Chair  
On behalf of the Hearing Tribunal

IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL BY  
THE ALBERTA COLLEGE OF OCCUPATIONAL THERAPISTS  
into the conduct of Gokul Pathak, Registration #5192,  
pursuant to the Health Professions Act, RSA 2000 c H-7

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PENALTY ORDER DECISION OF THE HEARING TRIBUNAL

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## I. INTRODUCTION

1. In a written findings decision dated February 14, 2024, the Hearing Tribunal made findings of unprofessional conduct concerning Gokul Pathak ("Mr. Pathak") as follows:
  1. On or about May 28, 2020, you shared one or more videos depicting child pornography as defined under section 163.1(1) of the Criminal Code of Canada ("child pornography") with your spouse via Facebook Messenger.
  2. On or about August 6, 2020, you shared a video depicting child pornography with your spouse via Facebook Messenger.

The Hearing Tribunal did not make a finding of unprofessional conduct concerning the third charge that was before it.

2. In its February 14, 2024 findings decision, the Hearing Tribunal asked the parties to determine the manner in which penalty submissions would be made. Both parties agreed to provide written submissions and, accordingly, an oral penalty hearing was not necessary.
3. The Hearing Tribunal received written submissions on penalty from the Complaints Director dated June 28, 2024. The following appendices were attached to that written submission:
  - A. Curriculum Vitae of Dr. Ashley Barlow, PhD
  - B. Written Report of Dr. Barlow, dated April 30, 2024 ("Dr. Barlow's Report")
  - C. Statement of Costs to Date, as of June 27, 2024
4. The Hearing Tribunal received written submissions on penalty from the Member dated July 18, 2024.

## II. AUTHORITY OF THE HEARING TRIBUNAL CONCERNING PENALTIES

5. Pursuant to section 82(1) of the *Health Professions Act* (the "Act"), the Hearing Tribunal is given the discretion to order a wide range of penalties in these circumstances. That section states:

82(1) If the hearing tribunal decides that the conduct of an investigated person constitutes unprofessional conduct, the hearing tribunal may make one or more of the following orders:

- (a) caution the investigated person;
- (b) reprimand the investigated person;
- (c) impose conditions on the investigated person's practice permit generally or in any area of the practice of the regulated profession, including conditions that the investigated person
  - (i) practise under supervision,



- (ii) practise with one or more other regulated members,
  - (iii) not practise in an area of the practice of the regulated profession until the investigated person has successfully completed a specific course of studies or obtained supervised practical experience of a type described in the order,
  - (iv) not practise in an area of the regulated profession, or
  - (v) report on specific matters to the hearing tribunal, council, committee or individual specified in the order;
- (d) direct the investigated person to satisfy the hearing tribunal, committee or individual specified in the order that the investigated person is not incapacitated and suspend the investigated person's practice permit until the hearing tribunal, committee or individual is so satisfied;
- (e) require the investigated person to undertake counselling or a treatment program that in its opinion is appropriate;
- (f) direct that within the time set by the order the investigated person must pass a specific course of study, obtain supervised practical experience of a type described in the order or satisfy the hearing tribunal, committee or individual specified in the order as to the investigated person's competence generally or in an area of the practice of the regulated profession;
- (g) subject to subsection (1.1), suspend the practice permit of the investigated person for a stated period or until
- (i) the investigated person has successfully completed a specific course of studies or obtained supervised practical experience of a type described in the order, or
  - (ii) the hearing tribunal or a committee or individual specified in the order is satisfied as to the competence of the investigated person generally or in a specified area of the practice of the regulated profession;
- (h) subject to subsection (1.1), cancel the registration and practice permit of the investigated person;
- (i) if, in the opinion of the hearing tribunal, the investigated person's fees for professional services were improper or inappropriate or the professional services that the investigated person provided were improperly rendered or required the complainant to undergo remedial treatment, the hearing tribunal may direct the investigated person to waive, reduce or repay the fee for professional services provided by the investigated person;
- (j) direct, subject to any regulations under section 134(a), that the investigated person pay within the time set in the order all or part of the expenses of, costs of and fees related to the investigation or hearing or both, including but not restricted to

- (i) the expenses of an expert who assessed and provided a written report on the subjectmatter of the complaint,
  - (ii) legal expenses and legal fees for legal services provided to the college, complaints director and hearing tribunal,
  - (iii) travelling expenses and a daily allowance, as determined by the council, for the complaints director, the investigator and the members of the hearing tribunal who are not public members,
  - (iv) witness fees, expert witness fees and expenses of witnesses and expert witnesses,
  - (v) the costs of creating a record of the proceedings and transcripts and of serving notices and documents, and
  - (vi) any other expenses of the college directly attributable to the investigation or hearing or both;
- (k) direct that the investigated person pay to the college within the time set in the order a fine not exceeding the amount set out in the column of the unprofessional conduct fines table that is specified for the college in a schedule to this Act for each finding of unprofessional conduct or the aggregate amount set out in that column for all of the findings arising out of the hearing;
- (l) any order that the hearing tribunal considers appropriate for the protection of the public.

### III. PENALTY CONSIDERATIONS

#### (a) Generally

6. The College's mandate under the Act is to govern its members in a manner that protects the public and serves the public's interests. A fundamental purpose of penalty orders is to ensure that the public is protected from acts of unprofessional conduct. Bearing in mind this public protection principle, the Hearing Tribunal can also consider deterrence to the member and the profession, rehabilitation, fairness and the integrity of the profession as part of the objectives for determining penalties.
7. As adopted by the Alberta courts, the Hearing Tribunal can consider the factors described in the *Jaswal v. Newfoundland Medical Board*, 1996 CarswellNfld 32(TD) decision ("*Jaswal*") as follows:
  - Nature and gravity of the unprofessional conduct.
  - Age and experience of the offending person.
  - Previous character of the offending person.
  - Age and mental condition of the offending person.

- The number of times the unprofessional conduct occurred.
  - The role of the offending person.
  - Whether the offending person had already suffered financial or other penalties as a result of the unprofessional conduct.
  - The impact of the unprofessional conduct on the complainant or others.
  - Mitigating circumstances.
  - Promotion of specific deterrence (to the member) and general deterrence (to the profession).
  - Need to maintain the public's confidence in the integrity of the profession.
  - Degree to which the unprofessional conduct are regarded, by consensus, as being outside the range of acceptable conduct.
  - The range of sanction in other similar cases.
8. Bearing in mind the Jaswal factors, in paragraph 16 of the Complaints Director's written submissions she expressly submitted that the Hearing Tribunal should consider the following factors:
- a. The seriousness of the unprofessional conduct.
  - b. The impact of the unprofessional conduct on patients and others.
  - c. Specific deterrence of the investigated person from further unprofessional conduct.
  - d. General deterrence, so the general membership understands that this type of conduct is unacceptable.
  - e. The need to maintain the public's confidence in the College's ability to properly supervise the conduct of its members and maintain the integrity of the profession.
  - f. Rehabilitation of the investigated person. What was the underlying cause or causes of unprofessional conduct? What orders will address the underlying causes and contribute to rehabilitation?
  - g. Potential mitigating factors:
    - i. Does the investigated person have a long and previously unblemished record of professional service?
    - ii. Was the unprofessional conduct an isolated incident?

- iii. Has the investigated person accepted responsibility by admitting the unprofessional conduct?
  - iv. Is the investigated person truly remorseful? Does the investigated person truly recognize that their conduct was wrong?
  - v. In appropriate cases, has the investigated person apologized?
  - vi. Has the investigated person made efforts to reduce the damage caused by the unprofessional conduct?
  - vii. Has the investigated person suffered other losses or penalties because of the unprofessional conduct?
  - viii. Other mitigating factors given all the circumstances of the case.
- h. Potential aggravating factors:
- i. Very serious misconduct; in other words, the conduct constitutes a very significant departure from accepted norms of professional behaviour;
  - ii. A pattern of planned and deliberate misconduct;
  - iii. Vulnerability of the patient and others affected;
  - iv. The unprofessional conduct had a very significant negative impact on patients or other parties.
- i. Whether there are previous findings of unprofessional conduct against the investigated person.
- j. The range of sanctions in similar cases, which serve as a general, non-binding guide. While disparate sanctions for the same misconduct are to be avoided, care must be taken to carefully consider the factual similarities and differences between cases.

#### IV. PENALTY SUBMISSIONS FROM THE COMPLAINTS DIRECTOR

9. The written submissions of the Complaints Director speak for themselves and it is not necessary to repeat them in detail in this decision. They can be summarized as follows:
- This case does not involve mandatory cancellation of registration and practice permit. However, the primary sentencing factors support cancellation due to the very serious nature of the proven unprofessional conduct and the need to maintain public confidence in the integrity of the profession.

- The Hearing Tribunal can rely on Dr. Barlow's Report but must recognize that her opinion has limitations.
  - The primary purpose of professional regulation is to protect the public.
  - The patient "sexual misconduct" and "sexual abuse" (including the mandatory penalty orders they establish) are not relevant to this case.
  - The seriousness of the unprofessional conduct, the impact of it, the need to maintain public confidence, mitigating factors (significant losses and penalties), Mr. Pathak's lack of a discipline history and sanctions in similar cases support the Complaints Director's requested penalty orders.
  - A costs order of \$15,000.00 payable over twenty-four months is reasonable bearing in mind the seriousness of the unprofessional conduct, the overall hearing costs of \$71,000.00 and Mr. Pathak's financial circumstances.
10. The Complaints Director sought the following penalty orders against Mr. Pathak:
- a. Cancellation of Mr. Pathak's practice permit and registration;
  - b. A direction for Mr. Pathak to pay \$15,000 towards the total costs of the investigation and hearing, within 24 months after the Hearing Tribunal issues its decision.

V. PENALTY SUBMISSIONS FROM MR. PATHAK

11. The written submissions of Mr. Pathak speak for themselves and it is not necessary to repeat them in detail in this decision. They can be summarized as follows:
- The issue before the Hearing Tribunal is not whether the public is at risk should Mr. Pathak be allowed to practice. Instead, it is whether the College's reputation would be brought into disrepute if he continues to practice.
  - Mr. Pathak does not take issue with the Complaints Director's position contained in paragraph 11 to 20 of her written submissions. Mr. Pathak submits that he should receive a reprimand and a suspension of his license for six (6) months together with conditions on his practice permit that would avoid risk of harm to the public.
  - Even though Mr. Pathak has denied child sexual exploitation materials ("CSEM") offending, Dr. Barlow's Report and her opinion that Mr. Pathak is a low risk to re-offend is important.
  - Cancellation of Mr. Pathak's practice permit and registration are not automatic even though the findings of unprofessional conduct relate to CSEM.

12. Mr. Pathak submitted that the Hearing Tribunal should make the following penalty orders:
1. Reprimand.
  2. A six-month suspension.
  3. Conditions on Mr. Pathak's practice permit as follows:
    - 1) That he completes to the satisfaction of the College professional counselling regarding CSEM offending before his permit is reinstated.
    - 2) That he is not allowed to treat any patient under the age of 18;
    - 3) That he is not allowed access to areas where someone under the age of 18 may reasonably be assumed to be receiving treatment.
  4. Mr. Pathak must pay \$15,000.00 in costs over a period of thirty-six months.

VI. PENALTY ORDERS

13. As part of its deliberations, the Hearing Tribunal carefully considered the written submissions and case law from both parties.
14. On that basis, the Hearing Tribunal makes the following penalty orders:
1. Mr. Pathak's practice permit and registration are cancelled effective as of the date of this decision.
  2. Mr. Pathak shall pay \$15,000.00 (representing a portion of the costs incurred by the College in terms of the investigation and hearing). The costs of \$15,000.00 must be paid within thirty-six (36) months of the date of this penalty decision.
  3. In the event that Mr. Pathak does not pay the \$15,000.00 in costs within the said thirty-six (36) month time period and bearing in mind sections 45.1(1) and (2) of the Act, the costs or any outstanding balance thereof must be paid in full as part of any successful practice permit and registration reinstatement made by Mr. Pathak.

VII. REASONS: GENERAL ORDERS

**Seriousness of Unprofessional Conduct**

15. The Hearing Tribunal agrees with the Complaints Director that the findings of unprofessional conduct are serious, including that the videos are of "an unambiguously

evil character". Sharing CSEM is highly egregious and entirely inconsistent with the obligations of a healthcare professional, particularly one who may treat children.

#### **Impact of Unprofessional Conduct**

16. The Hearing Tribunal unanimously adopted the Complaints Director's submissions at paragraph 23, 24 and 25 of her written submissions. Sharing of the CSEM videos in and of itself continues the sexual abuse and degradation of the involved children. Those actions continue the victimization and trauma of the children even though those persons may not know that their images were viewed or shared by Mr. Pathak.
17. The Hearing Tribunal agrees with the Complaints Director that the impact of sharing these videos should not be minimized.

#### **Specific Deterrence**

18. For the reasons mentioned above, the Hearing Tribunal rejects Mr. Pathak's request for a six-month suspension. A suspension is wholly inconsistent with the seriousness of the unprofessional conduct that occurred.
19. Even though Mr. Pathak has experienced severe consequences as the result of his actions (including arrest and detention by the police for the criminal charges that were later stayed), cancellation of registration and practice permit is required to specifically deter Mr. Pathak. The Hearing Tribunal is aware that pursuant to sections 45.1(1) and (2) of the Act Mr. Pathak can apply for reinstatement of his registration and practice permit within three (3) years despite the cancellation order imposed by the Hearing Tribunal.

#### **General Deterrence**

20. The Hearing Tribunal's decision regarding penalties must convey to the profession that this type of conduct is a marked unambiguous departure from what is expected of members of this profession even in their personal as opposed to professional lives. This is not a situation involving "grey areas" in terms of the unprofessional conduct that occurred. In ordering cancellation of registration and practice permit, the Hearing Tribunal is mindful of the other sanction processes which exist to deter individuals from sharing child pornography. However, the Hearing Tribunal unanimously concluded that the penalty orders must, as the Complaints Director submits, send a clear message to the entire occupational therapy profession that sharing CSEM is repugnant and will not be tolerated.

#### **Need to Maintain Public Confidence**

21. The Hearing Tribunal's comments regarding "General Deterrence" above are also relevant to the need to maintain public confidence in the occupational therapy profession.
22. The Hearing Tribunal is mindful of its role in carrying out the mandatory public protection functions of the College under the Act. Maintaining public confidence in the profession and maintaining the integrity of the profession is a compelling justification for ordering cancellation of Mr. Pathak's practice permit and registration.

23. As the Complaints Director correctly noted in her written submissions, practicing in a profession is a privilege and not a right. Mr. Pathak clearly abused that privilege.
24. Mr. Pathak's unprofessional conduct is such a striking and egregious departure from the expectations of a member of the College that it warrants cancellation in order to signify to the public that behavior such as Mr. Pathak's will result in loss of the privilege to practice.

#### **Rehabilitation of Mr. Pathak**

25. The circumstances of this case, particularly in light of Mr. Pathak's denial of responsibility and denial of sharing CSEM makes it challenging for the Hearing Tribunal to create penalty orders that would support rehabilitation of Mr. Pathak.
26. In her report, Dr. Barlow provides the opinion that Mr. Pathak's risk of engaging with CSEM or engaging in contact offending in the future is low. However, the Hearing Tribunal agrees with the Complaints Director that Dr. Barlow's opinion has limitations, including Mr. Pathak's denial of CSEM offending.
27. As a result, the Hearing Tribunal concludes that Dr. Barlow's Report and Mr. Pathak's risk of future CSEM offending is only part of the overall analysis that the Hearing Tribunal must engage in when determining appropriate sanctions.
28. Very importantly, the Hearing Tribunal is not placing any overreliance on Mr. Pathak's lack of admission of unprofessional conduct as an aggravating factor. As a regulated member of the College, Mr. Pathak had the ability to contest the allegations and mount a vigorous defense. Taking that step is not an aggravating factor in terms of sanctions.

#### **Mitigating Factors**

29. The Hearing Tribunal acknowledges that there have been significant adverse consequences for Mr. Pathak in terms of his conduct and that is a mitigating factor. That includes Mr. Pathak ceasing to engage in occupational therapy while the criminal charges were pending and the effective cancellation of his registration as the result of him not renewing his practice permit in March of 2022. The interim conditions on Mr. Pathak's practice since February 2023 have also been an adverse consequence for Mr. Pathak and are also a mitigating factor.

#### **Aggravating Factors**

30. The Hearing Tribunal was not presented with any substantive evidence of aggravating factors independent of the seriousness of the findings of unprofessional conduct.

#### **Discipline History**

31. The Hearing Tribunal acknowledges that this is the first finding of unprofessional conduct regarding Mr. Pathak and that this is a neutral factor in terms of its penalty analysis.

#### **Sanctions in Similar Cases**

32. The Hearing Tribunal carefully considered the case law placed before it relating to



similar findings of unprofessional conduct. The Hearing Tribunal concludes that its overall public protection mandate is the paramount consideration. From a factual perspective, the cases provided to the Hearing Tribunal were not "identical" to the facts in terms of Mr. Pathak. The general principles in those cases were, however, instructive in terms of confirming the Hearing Tribunal's overall public protection mandate, including general deterrence and the obligation to maintain public confidence in the occupational therapy profession.

### **Other Comments Concerning Penalty Orders**

33. The Hearing Tribunal agrees with both parties that cancellation is not presumptive but found that the specific facts of this case justify cancellation due to the egregious nature of Mr. Pathak's unprofessional conduct and the continued victimization of the children in the videos which has occurred due to Mr. Pathak's actions.
34. The Hearing Tribunal disagrees with the comments in the "Overview" portion of Mr. Pathak's written submissions that the issue before the Hearing Tribunal is not whether the public is at risk should Mr. Pathak be allowed to practice. To the contrary, that is an important consideration for the Hearing Tribunal.
35. Very importantly, and as the Complaints Director submitted, occupational therapists have interactions with clients of all ages, including young children and adolescents and may have intimate access to their client's homes and private lives. As well, practicing occupational therapy can involve observing clients in disrobed states or discussing matters of great sensitivity and vulnerability. All of those factors cumulatively and clearly support cancellation of Mr. Pathak's registration and practice permit.
36. The Hearing Tribunal disagrees with Mr. Pathak's position that the issue before the Hearing Tribunal is whether the College's reputation would be brought into disrepute should Mr. Pathak be allowed to continue to practice. Instead, a key and fundamental issue that Mr. Pathak's conduct brings into play is the public's confidence about the entire profession of occupational therapy and whether the College has properly carried out its public protection and regulatory functions.

### **VIII. REASONS: COSTS ORDER**

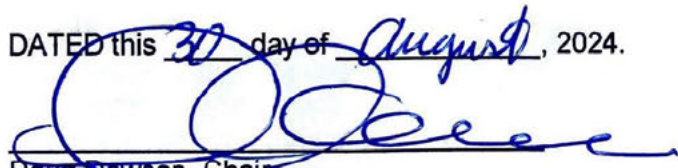
37. Consistent with paragraphs 18 and 19 of the Complaints Director's written submissions, the Hearing Tribunal acknowledges that although it has the express authority under the HPA to make a costs order, costs are not a default position. Specifically, whether or not to make a costs order (and, if so, the amount of the costs order) are to be considered on a case-by-case basis.
38. The Hearing Tribunal also recognizes the parameters established by the *Jinnah* decision and that ordering payment of a significant portion of costs is appropriate where a regulated member has committed serious unprofessional conduct. The Hearing Tribunal also recognizes that any costs order must not be punitive, must not unduly deter investigated regulated members from legitimately challenging charges and must bear in mind the individual regulated member's financial circumstances. In short, a costs order must be reasonable.

39. Significantly, there is no dispute between the parties regarding the factors which are applicable regarding the costs order analysis. In the "Position of Gokul Pathak" portion of his written submissions, Mr. Pathak expressly states that he takes no issue with the costs analysis or the amount of the costs order being \$15,000.00. As a result, it is not necessary for the Hearing Tribunal to address the issue of the amount of costs in detail in this decision. The Hearing Tribunal concludes that a costs order of \$15,000.00 is fair, reasonable and justified having regard to the applicable case law and the specific facts of this case.
40. The only difference in the parties' positions with respect to costs is that Mr. Pathak is requesting an additional twelve months to pay the amount of costs so that he will have thirty-six months to complete payment. The Hearing Tribunal considers that to be a reasonable request having regard to all of the circumstances and adopts it as part of its orders.

IX. ORDERS OF THE HEARING TRIBUNAL

41. The Hearing Tribunal makes the following penalty orders:
1. Mr. Pathak's practice permit and registration are cancelled effective immediately.
  2. Mr. Pathak shall pay \$15,000.00 (representing a portion of the costs incurred by the College in terms of the investigation and hearing). The costs of \$15,000.00 must be paid within thirty-six (36) months of the date of this penalty decision.
  3. In the event that Mr. Pathak does not pay the \$15,000.00 in costs within the said thirty-six (36) month time period and bearing in mind sections 45.1(1) and (2) of the Act, the costs or any outstanding balance thereof must be paid in full as part of any successful practice permit and registration reinstatement made by Mr. Pathak.

DATED this 30 day of August, 2024.

  
Doug Dawson, Chair,  
On behalf of the Hearing Tribunal