

COLLEGE OF PHYSICIANS & SURGEONS OF ALBERTA

IN THE MATTER OF
A HEARING UNDER THE *HEALTH PROFESSIONS ACT*,
RSA 2000, c H-7

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF DR. MONICA CAVANAGH

**DECISION OF THE HEARING TRIBUNAL OF
THE COLLEGE OF PHYSICIANS
& SURGEONS OF ALBERTA
January 13, 2025**

I. INTRODUCTION

1. The Hearing Tribunal of the College of Physicians and Surgeons of Alberta (the "**CPSA**") held a hearing into the conduct of Dr. Monica Cavanagh on November 26, 2024. The members of the Hearing Tribunal were:

Dr. Goldees Liaghati-Nasseri as Chair;
Dr. John Pasternak;
Mr. Kwaku Adu (public member);
Mr. Terry Engen (public member).

2. Appearances:

Mr. Craig Boyer, legal counsel for the Complaints Director;
Dr. Monica Cavanagh ("**Dr. Cavanagh**" or the "**Investigated Member**");
Ms. Katherine Fisher, legal counsel for Dr. Cavanagh;
Ms. Julie Gagnon acted as independent legal counsel for the Hearing Tribunal.

II. PRELIMINARY MATTERS

3. Neither party objected to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing. There were no matters of a preliminary nature.
4. The hearing was open to the public under section 78 of the *Health Professions Act*, RSA 2000, c. H-7 ("**HPA**"). There was no application to close the hearing.

III. CHARGES

5. The Amended Notice of Hearing listed the following allegations (the "**Allegations**"):
 1. You did display a lack of knowledge of or lack of skill or judgment in the provision of professional services to your patient, [REDACTED] particulars of which are outlined in the expert reports dated May 17, 2023, January 7, 2024 and April 21, 2024;
 2. You did display a lack of knowledge of or lack of skill or judgment in the provision of professional services to your minor patient [REDACTED] (DOB: [REDACTED]), particulars of which are outlined in the expert reports dated May 17, 2023, January 7, 2024 and April 21, 2024;
 3. You did display a lack of knowledge of or lack of skill or judgment in the provision of professional services to your minor patient [REDACTED] (DOB: [REDACTED]), particulars of which are outlined in the expert reports dated May 17, 2023, January 7, 2024 and April 21, 2024.

6. The Investigated Member admitted to the Allegations and that the conduct constituted unprofessional conduct.

IV. EVIDENCE

7. The following Exhibits were entered into evidence during the hearing:

Exhibit 1 – Agreed Exhibit Book consisting of:

- Tab 1 Notice of Hearing dated June 4, 2024
- Tab 2 Amended Notice of Hearing, undated
- Tab 3 Complaint Form dated March 10, 2022
- Tab 4 Letter of Response from Dr. Cavanagh, dated August 24, 2022
- Tab 5 Letter of response from Dr. Cavanagh regarding patient charts dated March 10, 2023
- Tab 6 Patient Chart for [REDACTED]
- Tab 7 Patient Chart for [REDACTED]
- Tab 8 Patient Chart for [REDACTED]
- Tab 9 Expert report from Dr. L [REDACTED] May 17, 2023
- Tab 10 Dr. Cavanagh's response to expansion of scope dated July 24, 2023
- Tab 11 Dr. L [REDACTED] Addendum to Expert Opinion dated January 7, 2024
- Tab 12 Expert Opinion Addendum 2 dated April 21, 2024
- Tab 13 Alberta Health Care billings by Dr. Cavanagh regarding [REDACTED]
- Tab 14 CPSA Standards of Practice - Boundary-Violations- Personal
- Tab 15 CPSA Standards of Practice - Informed-Consent
- Tab 16 CPSA Standards of Practice - Practicing-Outside-of- Established- Conventional-Medicine
- Tab 17 CPSA Standards of Practice - Terminating-the-Physician- Patient- Relationship-in-Office-Based-Settings
- Tab 18 CPSA Standards of Practice - Transfer-of-Care
- Tab 19 CMA Code of Ethics and Professionalism
- Tab 20 Expert Report of Dr. [REDACTED], dated November 14, 2024
- Tab 21 Reply comments from Dr. L [REDACTED] regarding Dr. [REDACTED] opinion dated November 19, 2024

Exhibit 2 – Admission and Joint Submission Agreement

8. The following additional documents were provided to the Hearing Tribunal:
- Brief of Law – Joint Submissions
 - Dr. Halse Discipline Report - 2020canlii45161
 - Dr. Hudson Discipline Report - 2017canlii32151
 - Dr. Ovueni Professional Conduct Report - 2022canlii16852
 - Dr. Sarria Hearing Tribunal Decision- 2023canlii116894

- Dr. Silverman Professional Conduct Report - 2021canlii73128
- Dr. Thlape Discipline Report - 2016canlii74172

V. SUBMISSIONS ON THE ALLEGATIONS

Submissions on behalf of the Complaints Director

9. Mr. Boyer noted that the Admission and Joint Submission Agreement had streamlined the Hearing Tribunal's work and reduced the hearing length from four (4) days to one (1) day.
10. Mr. Boyer noted that the submissions before the Hearing Tribunal are not specific allegations but rather general allegations of a lack of skill or judgement in the care of three patients, a parent and two children. Dr. L■■■■'s reports particularize this lack of skill and judgement.
11. The Agreed Exhibit Book included an Expert Opinion from Dr. ■■■■ L■■■■. In January 2024, an addendum was obtained from the expert due to additional information gathered, after the original Expert Opinion was provided. This addendum indicated that the initial concerns regarding the younger child have lessened; however, there are still concerns over how the Investigated Member terminated the doctor-patient relationship with each of the patients. Additionally, a second addendum from the same expert was released on April 21, 2024, which involved a review of several emails exchanged between the parent and the Investigated Member.
12. Mr. Boyer reviewed the Investigated Member's billing to Alberta Health for her care of the parent patient. The billing records showed appointments were for psychiatric treatment, on average, biweekly, ranging from 1.5-2 hours each over 31 months.
13. The Investigated Member received an expert opinion from Dr. ■■■■ in the last few weeks, and Dr. L■■■■ has responded to this opinion.
14. Mr. Boyer identified key concerns regarding the failure to maintain appropriate boundaries with the parent patient and the unconventional treatment modalities used for both the parent and, to a lesser degree, the older child. Furthermore, the termination of care for all three patients was abrupt and did not follow established protocols. A single transfer of care occurred months later when the Investigated Member referred the older child to a pediatrician.
15. With this joint submission, the Investigated Member acknowledges that she did not meet the expected standard of care in the provision of professional services to these three patients. Under section 70 of the HPA, the Hearing Tribunal can accept the admission of unprofessional conduct so long as the Tribunal is satisfied that the evidence provided confirms that the conduct constitutes unprofessional conduct.

16. Mr. Boyer stated that the evidence substantiates the general Allegations of unprofessional conduct. Based on the evidence, the Hearing Tribunal should accept the admissions put forward by the Investigated Member.

Submissions on behalf of the Investigated Member

17. Ms. Fisher noted that the Investigated Member acknowledges her actions constituted unprofessional conduct deserving of sanction. The Investigated Member also recognizes the importance of meeting the Standards of Practice and Code of Ethics.
18. Ms. Fisher agreed this is a joint submission, and the Agreed Exhibit Book is not contested.
19. Ms. Fisher made no further submissions on the Allegations or the submissions of Mr. Boyer. Ms. Fisher noted she would have further submissions on sanction should the Tribunal accept the admissions by the Investigated Member.

Hearing Tribunal Questions

20. The Hearing Tribunal noted that the Amended Notice of Hearing refers to three expert reports of Dr. L[REDACTED]. In the Agreed Exhibit Book, the last two exhibits are two additional expert reports, one from Dr. [REDACTED] on behalf of the Investigated Member and an additional response from Dr. L[REDACTED]. The Hearing Tribunal asked the parties to make submissions on what use the Hearing Tribunal should make of the additional reports.
21. Mr. Boyer explained that Dr. [REDACTED]'s report provides context but does not undermine the overall admission of unprofessional conduct by the Investigated Member. Dr. L[REDACTED]'s additional report shows her opinion is unchanged.
22. Mr. Boyer noted that the additional opinions operate as if the experts had been heard in a contested hearing, but in any event Dr. L[REDACTED]'s opinion stands.
23. Ms. Fisher added that in addition to what Mr. Boyer had stated, the admission of Dr. [REDACTED]'s report, which is more supportive of the Investigated Member, is intended to add context to the circumstances of the Allegations.
24. Ms. Fisher noted that the Hearing Tribunal may find the additional expert opinions helpful in considering the sanctions as they provide context for why and how the conduct arose.

VI. FINDINGS ON THE ALLEGATIONS

27. The Hearing Tribunal considered the submissions of the parties and the exhibits. The Hearing Tribunal agreed that there was sufficient evidence that the conduct in the Allegations was proven and that the conduct constitutes unprofessional conduct pursuant to section 1(1)(pp)(i) and (ii) of the HPA as

conduct that displayed a lack of knowledge, skill or judgment in the provision of professional services and that breached the CPSA's Standards of Practice.

28. The Hearing Tribunal found the expert reports of Dr. L■■■■ to be comprehensive. The Hearing Tribunal relied on the expert reports dated May 17, 2023, January 7, 2024 and April 21, 2024 to find that the Allegations were proven and that the conduct constituted unprofessional conduct.
29. Following the position taken by both counsel for the parties, the Hearing Tribunal determined that it would rely on Dr. ■■■■■'s report and Dr. L■■■■'s further report for additional context and to determine sanction.
30. The Hearing Tribunal noted and agreed with the concerns expressed by Dr. L■■■■ regarding the issues raised in her reports dated May 17, 2023, January 7, 2024 and April 21, 2024.
31. The Investigated Member is a psychiatrist working in a small rural area. She initially began treating the older child and later started seeing the child's parent as a patient. Eventually, she also took on the younger child as a patient. The parent presented to the Investigated Member with a complex psychiatric condition that was difficult to manage. Over time, the Investigated Member became uncomfortable with the situation, feeling that the parent was intruding on her privacy and jeopardizing her well-being. As a result, she decided to terminate medical care for all three patients.
32. The Hearing Tribunal considered the abrupt termination of care for all three patients. It did not appear to the Hearing Tribunal that the Investigated Member had fully considered the consequences of termination or how to transition care appropriately.
33. The Hearing Tribunal emphasized the significance of adhering to the CPSA Standards of Practice concerning the transfer of care and the termination of the physician-patient relationship in an office-based setting. The CPSA has established a clear process for instances when a physician decides to end the physician-patient relationship unilaterally. Unfortunately, that process was not followed in this case.
34. The Hearing Tribunal considered the importance of physicians maintaining boundaries with patients that align with the CPSA standards, including the Standards of Practice: Boundary Violations and Code of Conduct regarding confidentiality and responsible behaviour.
35. The Investigated Member failed to maintain appropriate boundaries with the parent patient. This was evident in several ways, including providing the parent patient with a personal email address, engaging in casual conversations, excessive disclosure of personal information, and exchanging gifts as well as providing medical appointments that were not billed for. The Investigated Member explained that these actions were taken to support the

parent patient. However, the repeated failure to uphold professional boundaries raised significant concerns for the Hearing Tribunal. It is a physician's responsibility to establish and maintain boundaries with patients, and these boundaries should be upheld in all forms of communication.

36. The Hearing Tribunal noted the importance of aligning conduct with the CPSA standards on practicing outside of established conventional medicine. The Hearing Tribunal noted some concerns regarding the treatment approach with the parent and the older child. There were unconventional treatment approaches with both the parent and child. Further, the Investigated Member did not convey her impressions of the older child's condition to the child or to her parents. It was also unclear if the Investigated Member shared her impression with the receiving pediatrician, when there was eventually a transfer of care.
37. The Investigated Member admitted that her conduct breached the following:
 - a. CPSA Standards of Practice: Boundary Violations – Personal;
 - b. CPSA Standard of Practice: Informed Consent;
 - c. CPSA Standard of Practice: Practicing Outside of Established Conventional Medicine;
 - d. CPSA Standard of Practice: Terminating the Physician-Patient Relationship in Office-Based Settings;
 - e. CPSA Standard of Practice: Transfer of Care;
 - f. CMA Code of Ethics and Professionalism;
 - g. CPSA Code of Conduct.
38. The Hearing Tribunal agrees that these Standards of Practice and Codes were breached. They involve the fundamental expectations of all physicians. In addition, the Investigated Member's conduct displayed a lack of knowledge or skill or judgment in the provision of professional services.
39. For these reasons, the Hearing Tribunal finds that the conduct constitutes unprofessional conduct pursuant to section 1(1)(pp)(i) and (ii) of the HPA.

VII. SUBMISSIONS ON SANCTION

Submissions on behalf of the Complaints Director

40. Mr. Boyer directed the Hearing Tribunal to the Admission and Joint Submission Agreement for the agreed upon sanctions and to the brief of law on joint submissions. Mr. Boyer made submissions regarding the deference owed to a joint submission on sanction as set out in *R v Anthony-Cook*, 2016 SCC 43. A tribunal should not depart from a joint submission on sanctions unless the proposed sanction would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

41. Mr. Boyer referred to some of the factors in *Jaswal v. Medical Board (Nfld.)*, 1996 CanLII 11630 (NL SC). These factors included the gravity of the misconduct, the impact on the patients, the experience of the physician, and the need to ensure public confidence.
42. Mr. Boyer reviewed the mitigating factors. The Investigated Member has no prior history of complaints or unprofessional conduct, and the situation was, as explained in Dr. [REDACTED]'s report, complex.
43. Mr. Boyer emphasized that the sanctions focused on rehabilitation and remediation rather than punitive measures. The submitted sanction of a practice review and a CPEP course on ethics and boundaries promotes rehabilitation and remediation. Additionally, the public condemnation of the Investigated Member's conduct in the form of a reprimand acts as a deterrent.
44. Mr. Boyer highlighted that the Investigated Member is a specialist in a field that is in high demand, yet often scarce in certain regions of Alberta. There exists a significant public need for the services provided by the Investigated Member and it is beneficial to support her in further improving her skills.
45. Mr. Boyer referred to various CPSA decisions outlining the sanctions in circumstances analogous to the issue before the Hearing Tribunal.
46. Mr. Boyer noted that this series of cases provides context on sanctions that emphasize rehabilitation and remediation. The Individual Practice Review and CPEP course are active and involve remediation steps that require oversight and assessment of the Investigated Member. The involved nature of the review and course will promote public confidence in the profession.
47. If the Investigated Member does not pass the CPEP course, there is a second phase of a one-on-one course with a medical ethicist. Mr. Boyer submitted that a course with a medical ethicist is satisfactory in the event the Investigated Member fails the CPEP course. This option creates a robust safety net for the remediation and rehabilitation of the Investigated Member.
48. The costs are a fixed sum accepted by the Complaints Director, which Mr. Boyer submitted is a fair amount considering the admission by the Investigated Member.
49. In closing, Mr. Boyer acknowledged the importance of recognizing the Investigated Member for her admission. This admission not only facilitated a more efficient hearing process, reducing both time and costs, but also eliminated the necessity for witness testimony. Moreover, Mr. Boyer pointed out that the Investigated Member will emerge from this experience with enhanced skills, positioning her to more effectively provide psychiatric medical care to the public.

Submissions on behalf of the Investigated Member

50. Ms. Fisher reiterated Mr. Boyer's submissions on the deference owed to a joint submission. She noted the efficient and effective resolution through a joint submission, that the joint submission was made through consultation with the clients, and that the specific circumstances were considered when determining a fair and reasonable sanction.
51. In support of the Hearing Tribunal accepting the proposed sanctions, Ms. Fisher also noted the public interest test outlined in *Anthony Cook*. A decision maker should not depart from the joint submission unless doing so would bring the administration of justice into disrepute. Ms. Fisher also noted that for joint submissions to be realistically possible, there must be a high likelihood for them to be accepted.
52. Ms. Fisher also referenced a few of the *Jaswal* factors as set out below.
53. Ms. Fisher submitted that although the admitted conduct was serious, it did not fall at the higher end of the spectrum. The Investigated Member's actions were initially motivated by concern for her patients' well-being, and her own safety later became an issue. This behavior was not driven by willful negligence or a disregard for the patients' welfare.
54. Ms. Fisher articulated that the Investigated Member serves as a psychiatrist in a small community facing significant resource constraints. This reality is clearly reflected in both the Investigated Member's response to the College and in Dr. Lawson's report.
55. Ms. Fisher noted that the Investigated Member has practiced independently for 10 years with no prior complaints or involvement with the disciplinary process. This is a single incident with no other evidence of this conduct having occurred in the Investigated Member's practice outside of these circumstances.
56. Ms. Fisher reiterated that the Investigated Member has cooperated and admitted to unprofessional conduct, avoiding the need for a hearing. Additionally, she will incur financial consequences by agreeing to pay a portion of the hearing and the Individual Practice Review and CPEP course costs.
57. Ms. Fisher noted that none of the *Jaswal* factors should override the others, and the range of penalties should be considered on the totality of the facts.
58. Ms. Fisher submitted that the facts of these circumstances are distinct from some of the cases presented by Mr. Boyer. In the decisions of *Halse*, *Hudson*, and *Thlape* the issue was patient care. While factually distinct, when the unprofessional conduct is related to patient care, rehabilitation and remediation are often prioritized.

59. The other three decisions cited by Mr. Boyer involved more egregious conduct, resulting in punitive sanctions. In *Silverman*, the physician provided advice outside her practice area, belittled the patient's treating team, and inappropriately accessed patient records. In *Sarria* and *Ovueni*, the boundary violations were sexual in nature. These three cases were more severe than the present circumstances and received a more punitive punishment.
60. Ms. Fisher highlighted to the Hearing Tribunal that the submitted sanctions are reasonable and in the public interest. The sanctions prioritize rehabilitation and remediation. The public reprimand is significant in and of itself. The cumulative effect of the sanctions is sufficient to be just and reasonable.

VIII. DECISION ON SANCTION WITH REASONS

61. The Hearing Tribunal reviewed the exhibits and submissions from both parties. It found the reports of Dr. L [REDACTED] and Dr. [REDACTED] helpful in its deliberations. Dr. [REDACTED]'s report offered important context for understanding the Investigated Member's rationale behind treatment choices and any unforeseen boundary violations.
62. The Hearing Tribunal acknowledged the significant challenges involved in maintaining professional boundaries, particularly given the unique dynamics of a small community setting. Moreover, the Investigated Member, who is a psychiatrist, faces the added complexity of engaging with a diverse and intricate patient population, which further complicates the task of boundary management in their practice.
63. The Hearing Tribunal finds that the imposed sanction is reasonable. It effectively serves the purposes of deterrence and helps maintain public confidence in the integrity of the profession. Considering the circumstances of the case, the sanction is fair. Additionally, emphasizing rehabilitation and remediation is suitable given the nature of the conduct involved.
64. The Hearing Tribunal concluded that a reprimand was appropriate in this case. It serves as a denunciation of the conduct and as a deterrent for future actions. The Individual Practice Review and Continuing Professional Education Program (CPEP) will help the Investigated Member learn from this experience and improve her skills and judgment when dealing with complex patients and challenging situations. Additionally, if she fails to pass the CPEP course, the medical ethics remediation program will act as a safeguard. The Hearing Tribunal determined that these measures aim to protect the public by focusing on the rehabilitation and remediation of the Investigated Member, ensuring she does not find herself in a similar situation in the future.
65. Finally, the Hearing Tribunal found the costs order to be fair. The Hearing Tribunal was mindful that the costs order was reached by agreement of the parties.

66. The Hearing Tribunal is also cognizant of the high level of deference owed to a joint submission on sanction. The Hearing Tribunal finds that the proposed sanction meets the public interest test and does not bring the administration of justice into disrepute. The Hearing Tribunal found the proposed sanction to be reasonable and found no reason to intervene with the proposed joint submission on sanction.

IX. ORDERS

67. For the reasons set out above, the Hearing Tribunal hereby makes the following orders, in accordance with section 82 of the HPA:

1. Dr. Cavanagh shall receive a reprimand.
2. Dr. Cavanagh shall, at her own cost and within one month of the date of the written decision of the Hearing Tribunal, enroll and fully participate in an Individual Practice Review, as directed by the CPSA Competence Department with knowledge of the contents of the Agreed Exhibit Book and the decision of the Hearing Tribunal, and the Complaints Director shall be provided with an interim and final report from the CPSA Competence Department confirming the progress and completion of the Individual Practice Review by Dr. Cavanagh;
3. Dr. Cavanagh shall, at her own cost, complete and unconditionally pass the CPEP Probe course, as described at <https://www.cpepdoc.org/cpep-courses/probe-ethics-boundaries-program-canada/> , by no later than August 31, 2025 unless the Complaints Director agrees in writing to an extension of that deadline. The CPEP Probe program shall be provided with a copy of the Agreed Exhibit Book and the written decision of the Hearing Tribunal.
4. If Dr. Cavanagh does not unconditionally pass the CPEP Probe course, then she shall, at her own costs, undertake and fully cooperate in a one-on-one medical ethics remediation program as directed by a medical ethicist approved by the Complaints Director, with a focus on the deficiencies noted in the report from the CPEP Probe course.
5. The Hearing Tribunal shall retain jurisdiction to determine any issues arising from performance of the terms of this Order.
6. Dr. Cavanagh shall be responsible for a portion of the costs of the investigation and hearing being the sum of \$10,000.00, which shall be paid in twelve equal monthly installments commencing one month from the date of the decision issued by the Hearing Tribunal, or on terms acceptable to the Complaints Director.

Signed on behalf of the Hearing Tribunal by the Chair:

A handwritten signature in black ink, appearing to read 'Dr. Liaghati-Nasseri', written in a cursive style.

Dr. Goldees Liaghati-Nasseri

Dated this 13th day of January, 2025.