

**IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, BEING CHAPTER H-7  
OF THE REVISED STATUTES OF ALBERTA, 2000**

**AND IN THE MATTER OF A TRIBUNAL HEARING REGARDING THE CONDUCT OF JASON  
DONELON, A REGULATED MEMBER OF THE ALBERTA COLLEGE OF PARAMEDICS**

**DECISION OF THE HEARING TRIBUNAL OF THE  
ALBERTA COLLEGE OF PARAMEDICS – FILE #23-46**

The hearing of the Hearing Tribunal was held on July 17, 2024, via videoconference.

Present were:

The members of the Hearing Tribunal of the Alberta College of Paramedics (the “College”):

T. Cranston, Chair, Regulated Member;  
A. Bagan, Regulated Member;  
A. Otway, Public Member; and  
B. Rocchio, Public Member.

Also present were:

J. Kirk, Complaints Director for the College;  
B. Maxston, K.C., Legal Counsel for the Complaints Director;

J. Donelon, Investigated Member;  
D. Girard, Legal Counsel for the Investigated Member;

A. Chisholm, Independent Legal Counsel for the Hearing Tribunal;  
B. Deslaurier, Acting Hearings Director for the College;  
A. Ben Khaled, Student-at-Law, Hearing Facilitator;  
K. Schumann, Court Reporter; and  
A member of the public who attended as an observer.

**Opening of the Hearing**

1. The hearing opened and all participants present introduced themselves for the record.

**Preliminary Issue**

2. The parties advised that there were no objections to the members of the Hearing Tribunal and no objections of a preliminary or jurisdictional nature. Neither party applied to close the hearing.

### **Evidence And Documents Before the Hearing Tribunal**

3. An exhibit binder was provided to the Hearing Tribunal and the documents were submitted with the agreement of all parties. The documents were marked as Exhibits as follows:

- Exhibit 1: Amended Notice of Hearing, Notice to Attend, and Notice to Produce (the "Notice of Hearing"), dated May 2, 2024;
- Exhibit 2: Admission of Unprofessional Conduct, signed July 12, 2024;
- Exhibit 3: Agreed Statement of Facts with Appendices A-B, signed July 11, 2024; and
- Exhibit 4: Joint Submission Regarding Penalties, signed July 11, 2024.

### **Amended Notice to Attend and Produce**

4. At the hearing, the charges against Mr. Donelon were as follows:

- a. On or about June 24, 2023 you inappropriately accessed the personal phone number for patient L.D. ("Patient L.D.") from Patient L.D.'s electronic patient care record or "ePCR."

Which constitutes unprofessional conduct under section 1(1)(pp)(i) and/or xii of the Health Professions Act, including breaching of Alberta Health Services "Mobile Wireless Devices Policy 1160", Alberta Health Services "Collection Access Use and Disclosure Information Policy 1112", Alberta Health Services "Access to Information (Physical, Electronic, Remote) 1105", Alberta Health Services "Information Technology Acceptable Use Policy 1109" and/or Alberta Health Services "Privacy, Protection and Information Access Policy 1177" and/or breaching Alberta Health Services Code of Conduct and/or breaching of Alberta College of Paramedics Standards of Practice 1.0 (Professional Responsibility), 1.1 (General Responsibilities), 1.6 (Communication), 2.0 (Patient Relationship), 2.1 (Privacy and Confidentiality), and/or 3.1(2) (Patient Health Record Access and Content) and/or breaching Alberta College of Paramedics Code of Ethics section 1.1 (Act Respectfully), 1.5 (Ensure Appropriate Professional Boundaries), section 1.6 (Communicate Professionally and Responsibly), section 3.3 (Maintain Good Character and Reputation) and/or section 4.3 (Enhance the Profession).

- b. On or about June 25, 2023 and using Patient L.D.'s personal phone number, you texted Patient L.D. and then engaged in numerous text messages with Patient L.D. for no or no reasonable clinical purposes (the "Texts").

Which constitutes unprofessional conduct under section 1(1)(pp)(i) and/or (xii) and/or section 1(1)(nn.2) of the Health Professions Act, including breaching of Alberta Health Services "Mobile Wireless Devices Policy 1160", Alberta Health Services "Collection Access Use and Disclosure Information Policy 1112", Alberta Health Services "Access to Information (Physical, Electronic, Remote) 1105", Alberta Health Services "Information Technology Acceptable Use Policy 1109" and/or Alberta Health Services "Privacy, Protection and Information Access Policy 1177" and/or breaching Alberta Health Services Code of Conduct and/or breaching of Alberta College of Paramedics Standards of Practice 1.0 (Professional Responsibility), 1.1 (General Responsibilities), 1.6 (Communication), 2.0 (Patient Relationship), 2.1 (Privacy and Confidentiality), 2.7 Sexual Abuse and Sexual Misconduct Involving a Patient and/or 3.1(2) (Patient Health Record Access and Content) and/or breaching Alberta College of Paramedics Code of Ethics section 1.1 (Act Respectfully), 1.5 (Ensure Appropriate Professional Boundaries), section 1.6 (Communicate Professionally and Responsibly), section 3.3 (Maintain Good Character and Reputation) and/or section 4.3 (Enhance the Profession).

### **Submissions of the Complaints Director**

5. Mr. Maxston advised that the Amended Notice of Hearing (Exhibit 1) contained two charges of unprofessional conduct against Mr. Donelon.
6. He reviewed each of the charges for the Hearing Tribunal. The conduct described in Charge 2 was submitted as conduct that constitutes sexual misconduct as defined by the *Health Professions Act* ("HPA").
7. Mr. Maxston noted that an Admission of Unprofessional Conduct (Exhibit 2) and an Agreed Statement of Facts (Exhibit 3) had been provided, in which the parties reached an agreement on the evidence and facts that give rise to and support the charges in the Amended Notice of Hearing, and avoiding the need to call witnesses or proceed with a contested hearing.
8. Mr. Maxston advised the Hearing Tribunal of Bill 21, *An Act to Protect Patients*, which introduced the terms "sexual misconduct" and "sexual abuse" into the HPA.
9. Mr. Maxston referred to section 1(1)(nn.2) of the HPA which defines "sexual misconduct" as follows:

(nn.2) "sexual misconduct" means any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being but does not include sexual abuse.



10. Mr. Maxston submitted that the onus is on the Complaints Director to prove the facts that relate to the charges and that those facts constitute unprofessional conduct on a balance of probabilities.

11. He referred to section 1(1)(pp) of the HPA which defines “unprofessional conduct.” He specifically referred to the following relevant subsections:

(pp) “unprofessional conduct” means one or more of the following, whether or not it is disgraceful or dishonourable:

- (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- (ii) contravention of this Act, a code of ethics or standards of practice.

12. Mr. Maxston then reviewed the Agreed Statement of Facts, which provides in summary, that:

- a. At all material times, Mr. Donelon was a regulated member of the College and was employed by Alberta Health Services (“AHS”) as an Advanced Care Paramedic.
- b. On June 24, 2023, Mr. Donelon attended at the residence of Patient L.D. with his partner to provide emergency medical services to Patient L.D.
- c. On June 24, 2023, Mr. Donelon inappropriately accessed the personal phone number for Patient L.D. from Patient L.D.’s electronic patient care record or “ePCR”.
- d. On June 25, 2023, and using Patient L.D.’s personal phone number, Mr. Donelon sent Patient L.D. the Texts for no reasonable clinical purposes and which contained sexual comments.
- e. On August 8, 2023, the Complaints Director received an Employer Complaint Form from AHS EMS, Calgary Zone Operations regarding Mr. Donelon (the “Complaint”) pursuant to section 57 of the HPA. The Complaints Director appointed an investigator who conducted an investigation with respect to the Complaint and completed an investigation report. The Complaints Director then referred this matter to a hearing.
- f. On or about October 30, 2023, Mr. Donelon’s employment with AHS was terminated as the result of his conduct.

13. The appendices to the Agreed Statement of Facts included: the Employer Complaint Form from AHS EMS, Calgary Zone Operations and the AHS Termination Letter dated October 30, 2023.

14. Mr. Maxston directed the Hearing Tribunal to Mr. Donelon's Admission of Unprofessional Conduct, in which he admitted to the charges in the Amended Notice of Hearing, that the charges amounted to unprofessional conduct and that the unprofessional conduct described in Charge 2 constitutes sexual misconduct.

15. Mr. Maxston urged the Hearing Tribunal to find that all the charges are proven, that Mr. Donelon's proven conduct amounts to unprofessional conduct, and that the unprofessional conduct described in Charge 2 constitutes sexual misconduct.

#### **Submissions of the Investigated Member**

16. Mr. Girard accepted Mr. Maxton's submissions and confirmed that the Agreed Statement of Facts accurately stated the facts of this matter. Mr. Girard also highlighted Mr. Donelon's Admission of Unprofessional Conduct.

#### **Decision of the Hearing Tribunal on the Issue of Unprofessional Conduct**

17. The Hearing Tribunal adjourned to consider the submissions and to review the Agreed Statement of Facts and the Admission of Unprofessional Conduct. The Hearing Tribunal found that the two charges against Mr. Donelon were proven on a balance of probabilities and amounted to unprofessional conduct. The Hearing Tribunal also found that the unprofessional conduct described in Charge 2 constitutes sexual misconduct.

#### **Reasons for Findings of Unprofessional Conduct**

18. The Hearing Tribunal finds that Mr. Donelon's admissions in Exhibit 2, paragraphs 2 and 3, along with the facts set out in the Agreed Statement of Facts, specifically at paragraphs 8-10, support findings of unprofessional conduct for the two charges.

19. The Hearing Tribunal finds that Charges 1 and 2 have been proven, on a balance of probabilities, based on Mr. Donelon's Admission of Unprofessional Conduct and the Agreed Statement of Facts.

20. Having found the charges factually proven, the Hearing Tribunal considered whether the conduct constitutes unprofessional conduct as defined by the HPA. The Hearing Tribunal finds that it amounts to unprofessional conduct under HPA as set out in the Notice of Hearing under, sub-sections 1(1)(pp):

- a. (i) – displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services, and
- b. (xii) – conduct that harms the integrity of the regulated profession.



21. Mr. Donelon's conduct displayed a lack of knowledge, skill, or judgment. Mr. Donelon inappropriately accessed Patient L.D.'s telephone records from their electronic health records. Mr. Donelon's conduct was a significant breach of not only the College's Standards of Practice and Code of Ethics but also the cited AHS policies, which indicate that accessing a patient's personal information to connect with that patient for personal reasons was inappropriate.

22. Paramedics have an obligation to uphold their employer's policies. The College's Standards of Practice states that a patient remains a patient for six months from the date of service provided, where the healthcare service provided was a single interaction. The Hearing Tribunal notes that there was no evidence of interaction between Mr. Donelon and Patient L.D. prior to the June 24, 2023 incident and that Mr. Donelon proceeded to send the Texts just a day after providing healthcare services to Patient L.D.

23. Further, the Hearing Tribunal finds the proven conduct described in Charge 2 constitutes sexual misconduct under HPA, section 1(1)(nn.2). There was no reasonable or clinical purpose for the Texts that were initiated by Mr. Donelon and based on the Hearing Tribunal's review of the exchanged messages, it is clear that they became sexual very fast. Mr. Donelon should have been aware from training in relation to the College's standards and ethics that his conduct was unacceptable.

24. In breaching the College's standards, inappropriately accessing a patient's personal information on their electronic health record and engaging in sexual misconduct, Mr. Donelon's conduct also harms the integrity of the profession.

### **The Joint Submission Regarding Penalties**

25. Mr. Maxston acknowledged section 81.1(2) of the HPA, which requires that Patient L.D. be given an opportunity to present a written or oral statement describing the impact of the sexual misconduct on her. In this case, College staff contacted Patient L.D. to advise them of their right to do so, but Patient L.D. declined to provide a written or oral statement.

26. Mr. Maxston submitted that section 82(1) of the HPA gives the Hearing Tribunal authority to impose sanctions, and he described the types of sanction orders that the Hearing Tribunal could make.

27. Mr. Maxston submitted that section 82(1.1)(b) of the HPA requires the Hearing Tribunal to order the suspension of an investigated person's practice permit for a specified period of time at its discretion for findings of unprofessional conduct based on sexual misconduct.

28. Mr. Maxston also submitted that when a finding of unprofessional conduct based on sexual misconduct has occurred, sections 135.92(2) and 135.92(3) of the HPA require mandatory indefinite publication of the regulated member's name.

29. Mr. Maxston specifically addressed subsections 82(1)(j) and (k), which gives the Hearing Tribunal authority to order the investigated member to pay all or part of the investigation or hearing costs and order a fine not exceeding the amount set out in section 158 of the HPA for each finding of unprofessional conduct and the maximum aggregate or total fines for all unprofessional conduct.

30. He submitted that the Hearing Tribunal is not obligated to accept the parties' joint submission on penalty and retains the jurisdiction to determine what sanctions are appropriate.

31. Mr. Maxston referred the Hearing Tribunal to the case of *R v Anthony-Cook*, 2016 SCC 43, in which the Supreme Court of Canada held that joint submissions should be treated with deference and should only be rejected where the administration of justice is brought into disrepute. He indicated that *Anthony-Cook* is applicable to professional discipline proceedings.

32. Next, Mr. Maxston reviewed the parties' Joint Submission Regarding Penalties (Exhibit 4).

33. The Joint Submission Regarding Penalties sets out what the parties submit are fair and appropriate penalties. The joint submission proposed the following orders:

1. Mr. Donelon is reprimanded for his unprofessional conduct. The Hearing Tribunal's written decision will serve as the reprimand.
2. Mr. Donelon must successfully complete the "PROBE: Ethics & Boundaries Program" two-day ethics course (the "Course") and must provide evidence of successful completion of the Course to the Complaints Director within six (6) months of the Hearing Tribunal's written decision. Mr. Donelon will be responsible for all of the costs associated with the Course and the Course will not count towards his continuing education requirements with the College.
3. Mr. Donelon will pay the following fines:
  - a. Charge 1 - \$500.00
  - b. Charge 2 - \$1,000.00

for total fines in the amount of \$1500.00.

4. The fines can be paid over a period of two (2) years from the date of the Hearing Tribunal's written decision provided that if Mr. Donelon fails to pay the fines within that time period then his practice permit is automatically suspended without the necessity of any further steps and will not be reinstated until the entire balance of the fines are paid in full.



5. Mr. Donelon will pay \$4,500.00 in costs representing a portion of the costs of the investigation and hearing. The costs can be paid over a period of two (2) years from the date of the Hearing Tribunal's written decision provided that if Mr. Donelon fails to pay the costs within that time period then his practice permit is automatically suspended without the necessity of any further steps and will not be reinstated until the entire balance of the costs are paid in full.
  6. Mr. Donelon's practice permit will be suspended for six (6) consecutive weeks provided that the commencement of the suspension will occur within one year of the date of the Hearing Tribunal's written decision and provided that the Complaints Director, after providing reasonable written notice to Mr. Donelon, shall independently select the commencement date for the suspension.
  7. The Hearing Tribunal's written decision with Mr. Donelon's name will be published indefinitely on the College's website.
34. Mr. Maxston referred the Hearing Tribunal to the 12 factors that can be considered by a hearing tribunal when determining appropriate penalty orders. He highlighted the following factors as they relate to this hearing:
- a. Nature and gravity of the proven allegations: the conduct represented a serious and significant breach;
  - b. Previous character of the member and the presence or absence of any prior complaints or findings of unprofessional conduct: this is Mr. Donelon's first finding of unprofessional conduct;
  - c. The number of times the unprofessional conduct occurred: the unprofessional conduct was a one-time occurrence and there was no pattern of repetitive unprofessional conduct over a period of time;
  - d. The need to maintain the public's confidence in the integrity of the profession: Mr. Donelon's conduct and particularly the finding of sexual misconduct, has seriously harmed the integrity of the profession of paramedicine;
  - e. The range of sentences in other similar cases: there are no other similar discipline cases that can provide guidance; and
  - f. The presence or absence of any mitigating circumstances: Mr. Donelon has admitted his unprofessional conduct which demonstrates acceptance of responsibility for his actions.
35. Mr. Maxston noted that the case of *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336, requires hearing tribunals to consider whether there is a compelling reason to



seek a significant cost order. Mr. Maxston submitted that one of the compelling reasons identified by the Court of Appeal of Alberta is where serious unprofessional conduct occurs, such as sexual misconduct against a patient.

36. In conclusion, Mr. Maxston submitted that the parties strongly urge the Hearing Tribunal to accept the penalty orders in this joint submission, as they are consistent with the public interest and maintain the integrity of the profession.

#### **Submissions of the Investigated Member**

37. Mr. Girard agreed that the Joint Submission Regarding Penalties was appropriate and reflects the factors that the Hearing Tribunal must consider when determining a penalty order, including promoting specific and general deterrence to protect the public.

38. Mr. Girard noted that Mr. Donelon acknowledged his wrongdoing and understands that he needs to refrain from such conduct in the future.

#### **Question from the Hearing Tribunal**

39. After a brief caucus, the Hearing Tribunal asked the parties why no similar cases were provided to assist it in assessing the range of sentences in other similar cases. The parties indicated they could not locate cases that were sufficiently and factually similar to that of Mr. Donelon's.

#### **Decision of the Hearing Tribunal on Penalty**

40. The hearing adjourned so the Hearing Tribunal could further consider the joint submissions. When the hearing resumed, the Chair communicated that the Hearing Tribunal accepted the Joint Submission Regarding Penalties and ordered the penalties proposed.

#### **Reasons for Decision on Penalty**

41. The Hearing Tribunal carefully considered the Joint Submission Regarding Penalties and the law on joint submissions. It recognized that it owes deference to the parties and should not deviate from the proposal unless the joint submission would bring the College's discipline process into disrepute.

42. The Hearing Tribunal recognized it had the discretion to determine the appropriate sanctions in this case. The Hearing Tribunal considered the significant cost order set out in the Joint Submission Regarding Penalties and found that the severity of the serious unprofessional conduct provided a compelling reason to make the order.

43. The Hearing Tribunal also recognizes the mandatory suspension under section 82(1.1)(b) of the HPA and publication requirements for findings of sexual misconduct.

44. The Hearing Tribunal finds the proposed orders are fair and appropriate given that Mr. Donelon's conduct involved serious unprofessional conduct. His conduct was a significant breach of his professional and ethical obligations as a healthcare provider. In particular, the Hearing Tribunal notes that Mr. Donelon occupied a position of trust and authority over Patient L.D. and he abused that position. Regulated members of the profession need to maintain a high degree of trust in the community to protect the public.

45. The Hearing Tribunal believes that the proposed sanctions will contribute to protecting the public and ensuring the public's ongoing confidence in the integrity of the profession. The six-week suspension and financial penalties are significant and will send an appropriate message to the public and to members of the profession that this conduct will not be tolerated by the College.

46. The Hearing Tribunal recognizes that the orders sought possess a rehabilitation and remediation component requiring completion of a course on ethics and professional boundaries. The Hearing Tribunal trusts that Mr. Donelon's completion of the course will show that he has understood the gravity of his conduct.

47. Had there not been a joint submission, the Hearing Tribunal would have considered requiring Mr. Donelon to advise his employers of the Hearing Tribunal's findings and written decision in this matter.

### **Orders**

48. Having accepted the Joint Submission Regarding Penalties, The Hearing Tribunal orders the following penalties:

1. Mr. Donelon is reprimanded for his unprofessional conduct. The Hearing Tribunal's written decision will serve as the reprimand.
2. Mr. Donelon must successfully complete the "PROBE: Ethics & Boundaries Program" two-day ethics course (the "Course") and must provide evidence of successful completion of the Course to the Complaints Director within six (6) months of the Hearing Tribunal's written decision. Mr. Donelon will be responsible for all of the costs associated with the Course and the Course will not count towards his continuing education requirements with the College.
3. Mr. Donelon will pay the following fines:
  - a. Charge 1 - \$500.00
  - b. Charge 2 - \$1,000.00

for total fines in the amount of \$1500.00.



4. The fines can be paid over a period of two (2) years from the date of the Hearing Tribunal's written decision provided that if Mr. Donelon fails to pay the fines within that time period then his practice permit is automatically suspended without the necessity of any further steps and will not be reinstated until the entire balance of the fines are paid in full.
5. Mr. Donelon will pay \$4,500.00 in costs representing a portion of the costs of the investigation and hearing. The costs can be paid over a period of two (2) years from the date of the Hearing Tribunal's written decision provided that if Mr. Donelon fails to pay the costs within that time period then his practice permit is automatically suspended without the necessity of any further steps and will not be reinstated until the entire balance of the costs are paid in full.
6. Mr. Donelon's practice permit will be suspended for six (6) consecutive weeks provided that the commencement of the suspension will occur within one year of the date of the Hearing Tribunal's written decision and provided that the Complaints Director, after providing reasonable written notice to Mr. Donelon, shall independently select the commencement date for the suspension.
7. The Hearing Tribunal's written decision with Mr. Donelon's name will be published indefinitely on the College's website.

For the Hearing Tribunal of the Alberta College of Paramedics



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Tim Cranston, Chair

Dated August 23<sup>RD</sup>, 2024