

COLLEGE OF ACUPUNCTURISTS OF ALBERTA

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

AND IN THE MATTER OF A HEARING REGARDING THE
CONDUCT OF TRUDI RUMBALL

**DECISION OF THE HEARING TRIBUNAL
OF THE COLLEGE OF ACUPUNCTURISTS OF
ALBERTA**

I. INTRODUCTION

1. The Hearing Tribunal held a hearing into the conduct of Trudi Rumball on November 6, 2023. The members of the Hearing Tribunal were:

K. Kelly, Public Member
V. Paniak, Public Member
S. Shen, Acupuncturist
L. Wigness, Acupuncturist

A. Reid was independent legal counsel for the Hearing Tribunal.

Also present were:

A. Snow, Complaints Director for the College of Acupuncturists of Alberta ("College")
J. Gagnon, legal counsel for the Complaints Director

T. Rumball, Registrant

II. PRELIMINARY MATTERS

2. Neither party objected to the composition of the Hearing Tribunal. There were no other matters of a preliminary or jurisdictional nature.
3. Pursuant to section 78 of the *Health Professions Act, RSA 2000, c H-7* ("HPA"), the hearing was open to the public. There was no application to close the hearing. The complainant attended the hearing as an observer.
4. The Chair advised Ms. Rumball of her right to be represented by legal counsel. Ms. Rumball agreed to proceed with the hearing without legal counsel.

III. CHARGES

5. The Notice to Attend & Produce listed three allegations against Ms. Rumball:
 1. On or about August 26, 2022 you demonstrated a lack of skill or judgement in the provision of professional services to the Patient, who was in her third trimester of pregnancy, breached the Standards of Competency and Practice and/or breached the Code of Professional Conduct,¹ particulars of which include one or more of the following:
 - a. taking a last-minute appointment when you were experiencing fatigue and elevated stress levels;

¹ Ms. Rumball's conduct under Allegation 1 was alleged to have contravened the Code of Professional Conduct, section 2.3 and the Standards of Competency and Practice, section 5.13.

- b. leaving the pregnant Patient unattended with needles in her body and connected to a stimulation apparatus for more than 45 minutes;
 - c. not responding to the Patient's calls and screams for help;
 - d. not recognizing the gravity of the situation and responding adequately to the incident.
2. On or about August 26, 2022, you failed to provide appropriate treatment to the Patient, who was in her third trimester of pregnancy, which demonstrated a lack of skill or judgement in the provision of professional services, breached the Standards of Competency and Practice and/or breached the Code of Professional Conduct,² particulars of which include one or more of the following:
 - a. failing to obtain information to diagnose the Patient, by not taking the Patient's pulse, examining the Patient's tongue, or performing another method of diagnosis;
 - b. assessing that the Patient's cervix was 2 – 3 centimetres dilated;
 - c. failing to appropriately assess or determine the source of the Patient's contractions;
 - d. using acupuncture point GB21, which is contraindicated in pregnancy;
 - e. failing to appropriately monitor the Patient who was highly anxious and receiving electrostimulation.
3. On or about August 26, 2022, you failed to observe the Patient Records Standards, the Standards of Competency and Practice,³ and/or the *Health Information Act*,⁴ particulars of which include one or more of the following:
 - a. not ensuring electronically stored patient records are backed up regularly.
6. Ms. Rumball's conduct under each of the Allegations was further alleged to be unprofessional conduct as defined in the *HPA*, sections 1(1)(pp)(i), (ii), (iii), and (xii).
7. Ms. Rumball admitted to the conduct in the Allegations and admitted that her proven conduct constituted unprofessional conduct. Her admissions were set out in a document titled "Agreed Statement of Facts and Admission of Unprofessional Conduct."

IV. EVIDENCE

8. The following documents were entered as exhibits during the hearing:

² Ms. Rumball's conduct under Allegation 2 was alleged to have contravened the Code of Professional Conduct, sections 2.3 and 3.2; the Standards of Competency and Practice, section 5.13; and the Patient Records Standards, sections 2.3.2.12, 2.3.2.12.2, and 2.3.2.12.3.

³ Ms. Rumball's conduct under Allegation 3 was alleged to have contravened the Standards of Competency and Practice, section 5.21; the Patient Records Standards, sections 2.1.1, 2.1.4, 2.5.1.4; and the *Health Information Act*, sections 60(1)(c) and 60(2)(a).

⁴ RSA 2000, C H-5.

Exhibit 1: Agreed Statement of Facts and Admission of Unprofessional Conduct dated November 1, 2023, enclosing eight tabs of documents;

Tab 1: Email from DZ, the complainant, dated November 14, 2022, enclosing Complaint Reporting Form

Tab 2: Investigation Report dated January 11, 2023

Tab 3: Subject Matter Expert Report by Dr. Anderson

Tab 4: Notice to Attend & Produce dated August 24, 2023

Tab 5: College Code of Professional Conduct

Tab 6: College Standards of Competency and Practice

Tab 7: College Patient Records Standards

Tab 8: *Health Information Act*, section 60

Exhibit 2: Joint Submission on Sanction signed November 1, 2023

Exhibit 3: Complaints Director's Book of Authorities enclosing four tabs:

Tab 1: *HPA*, section 82

Tab 2: *Jaswal v Newfoundland Medical Board*, 1996 CanLII 11630

Tab 3: *R v Anthony Cook*, 2016 SCC 43

Tab 4: *Timothy Edward Bradley v Ontario College of Teachers*, 2021 ONSC 2303

V. SUBMISSIONS ON THE ALLEGATIONS

Submissions by Counsel for the Complaints Director

9. Ms. Gagnon began her submissions by advising that the parties had entered into an Agreed Statement of Facts and Admission of Unprofessional Conduct, which was provided to the Hearing Tribunal in advance of the hearing. Ms. Gagnon thanked Ms. Rumball for her cooperation, which allowed the hearing to proceed by agreement.
10. There were three allegations against Ms. Rumball related to an appointment she had with DZ, the complainant, on August 26, 2022. Ms. Gagnon referred the Hearing Tribunal to paragraphs 8 – 30 of the Agreed Statement of Facts and Admission of Unprofessional Conduct, which described the appointment:
 - a. On August 26, 2022, DZ made an appointment for 1:00 p.m. that day with Ms. Rumball for acupuncture treatment to induce labour, as DZ's water had broken and she was not experiencing contractions. DZ's doula referred DZ to Ms. Rumball.
 - b. DZ arrived at 13h00 at Ms. Rumball's home in Edmonton, Alberta for treatment. Ms. Rumball took DZ to the treatment room in the basement of her home. The treatment started with a consultation, followed by cupping and then acupuncture.

- c. During the consultation, Ms. Rumball took notes, including notes regarding the patient's pregnancy and treatment goals, and that the patient's "cervix 2-3 cm dilated" and "Braxton hicks throughout". Ms. Rumball's notes were before the Hearing Tribunal at Exhibit 1, Tab 2.
- d. Ms. Rumball understood that DZ's treatment goal was to have the acupuncture treatment induce labour. However, Ms. Rumball considered it unsafe to induce labour at DZ's stage of pregnancy and recommended cupping to relax muscles and promote circulation, and needles to produce further relaxation.
- e. DZ disrobed, laid on her left side on the treatment table, and first received cupping treatment. Ms. Rumball removed the cups and placed needles in DZ's upper back and needles in each of her feet. An electrostimulation device was attached to the needles in DZ's feet. The electrostimulation device had a timer. The cupping treatment is generally scheduled to take 20 minutes and the acupuncture treatment is generally scheduled to take 20 minutes.
- f. Ms. Rumball left the room after placing the needles and did not return when the electrostimulation device stopped and the timer went off. DZ waited for some time and then called for Ms. Rumball. When Ms. Rumball did not return, DZ eventually started yelling. She did not know how long she had been lying down.
- g. DZ eventually got up, disconnected the electrostimulation device and removed some of the needles in her feet. DZ checked her phone and found that the treatment had taken one hour and 45 minutes.
- h. DZ called her husband, BZ, who was waiting in his car in Ms. Rumball's driveway. DZ asked BZ to pick her up from the treatment room, as she still had needles in her back which she could not remove on her own and which prevented her from getting dressed.
- i. After receiving DZ's call, BZ rang Ms. Rumball's doorbell and knocked on her door but there was no answer. BZ opened the front door and saw Ms. Rumball's daughter using an iPad with headphones on. He asked her where Ms. Rumball was, and was told that Ms. Rumball was in her room. BZ asked Ms. Rumball's daughter to get Ms. Rumball and to show him the treatment room.
- j. When BZ arrived at the treatment room, he found DZ crying, half-naked and sitting on the edge of the bed. He returned upstairs to get Ms. Rumball to take the rest of the needles out. When Ms. Rumball and BZ went to the treatment room to see DZ, BZ told her that he and DZ were "done and ready to leave."
- k. Ms. Rumball apologized to DZ and made a comment about a long night with her children. She also removed the needles from DZ's back and did not charge DZ for the treatment. DZ got dressed and left with BZ. They left Ms. Rumball's home just before 15h00. DZ felt anxious, vulnerable, scared and distressed for some time after the treatment.

11. Ms. Gagnon reviewed Ms. Rumball's admissions and the supporting documents related to each of the Allegations.
12. Ms. Gagnon noted that in relation to Allegation 3, Ms. Rumball acknowledged that she failed to ensure that electronically stored records were backed up regularly. Allegation 3 referred to Ms. Rumball's obligations under the Patient Records Standards, the Standards of Practice and Competency, and the *Health Information Act*. Ms. Gagnon advised that it had recently come to her attention that acupuncturists are not captured by the *Health Information Act*. She submitted that it would be accurate and fair for the Hearing Tribunal to find that Ms. Rumball's conduct in Allegation 3 breached the College's Patient Records Standards, but not the *Health Information Act*.
13. In conclusion, Ms. Gagnon submitted that there were sufficient facts for the Hearing Tribunal to find that the Allegations are proven and constitute unprofessional conduct. Under the *HPA*, the Hearing Tribunal must review Ms. Rumball's admissions and satisfy itself that it is appropriate to make findings of unprofessional conduct.

Submissions by the Registrant

14. Ms. Rumball began her submissions by noting that she had been a member of the College and in good standing for 13 years. She wanted the Hearing Tribunal to know that she had a very difficult couple of years. However, she acknowledged that her personal circumstances would not affect whether her conduct was unprofessional conduct. Ms. Rumball advised that since the incident involving DZ, she barely worked. She took steps to seek psychiatry and therapy and saw a sleep consultant.
15. Ms. Rumball apologized for her conduct and stated that she would never want to cause harm or stress to anyone. She is willing to do whatever is needed to continue practicing in her field. She expressed hope that she would be allowed to continue practicing.

VI. DECISION ON THE ALLEGATIONS OF UNPROFESSIONAL CONDUCT

16. The Hearing Tribunal reviewed the Agreed Statement of Facts and Admission of Unprofessional Conduct and considered the parties' submissions. The Hearing Panel finds that the conduct alleged in Allegations 1, 2 and 3 is proven and constitutes unprofessional conduct as defined in the *HPA*.

Allegation 1

17. The Hearing Tribunal accepts Ms. Rumball's admission and finds that she:
 - a. took a last-minute appointment when she was experiencing fatigue and elevated stress levels;
 - b. left the pregnant DZ alone with needles in her body and connected to an electrostimulation device for over 45 minutes;
 - c. failed to respond to DZ's calls and screams for help; and

- d. failed to recognize the gravity of the situation and respond adequately to the incident.
- 18. As a regulated member of the College, Ms. Rumball was required to follow the Code of Professional Conduct and the Standards of Competency and Practice.
- 19. Article 2.3 of the Code of Professional Conduct provides:

2.3 Registrants shall conduct themselves in a manner that enhances the integrity and reputation of, and inspires public confidence in the profession.

- 20. Section 5.13 of the Standards of Competency and Practice provides:

Conditions Requiring Precaution

5.13 An Acupuncturist shall use good judgment and appropriate precautions when deciding whether to treat and when treating all patients and when determining whether to treat, consult with another appropriate health care provider, or refer to another appropriate health care provider where a patient has a severely infectious or systemic disease, or a frail/medically complicated condition (for example, AIDS, hepatitis, diabetes, severe skin disease, cancer, acute heart attack, severe hemorrhage, is currently pregnant, is a child under the age of eight, or is elderly).

- 21. Ms. Rumball knew that DZ was in her third trimester of pregnancy when DZ attended the appointment with Ms. Rumball on August 26, 2022. Ms. Rumball should have considered that DZ's pregnancy as a condition requiring precaution under section 5.13 of the Standards of Competency and Practice.
- 22. The Standards of Competency and Practice required Ms. Rumball to then decide whether to treat DZ as a patient, to consult with another health care provider, or to refer DZ to another health care provider. Prior to her appointment with DZ, Ms. Rumball had not worked as an acupuncturist for two years because of the COVID-19 pandemic. Ms. Rumball admitted that that on the day of the appointment, she was tired, experiencing anxiety, and going through difficult personal matters.
- 23. In these circumstances, Ms. Rumball should have recognized her own limitations and DZ's vulnerability and referred DZ to another health care practitioner. The Hearing Tribunal finds that in failing to do so, Ms. Rumball contravened Article 2.3 of the Code of Professional Conduct and section 5.13 of the Standards of Competency and Practice. The Hearing Tribunal further finds that Ms. Rumball's conduct demonstrates a lack of knowledge, skill, or judgment in the provision of professional services. Her conduct is unprofessional conduct as defined in sections 1(1)(pp)(i),(ii), and (xii) under the *HPA*.

Allegation 2

24. The Hearing Tribunal accepts Ms. Rumball's admission and finds that she:
- failed to obtain information to diagnose DZ;
 - inappropriately assessed that DZ's cervix was 2 – 3 centimetres dilated;
 - failed to appropriately assess or determine the source of DZ's contractions;
 - used acupuncture point GB21, which is contraindicated for in pregnancy; and
 - failed to monitor DZ appropriately despite being aware she was receiving electrostimulation and anxious.
25. The Hearing Tribunal considered Articles 2.3 and 3.2 of the Code of Professional Conduct. Article 3.2 requires acupuncturists to be competent to provide a given treatment. Acupuncturists must provide treatment in an appropriate and safe manner:
- 3.2 Registrants must practice within the scope of permitted modes as defined by the *Acupuncture Regulation*. Registrants must not provide any advice or treatment for which the registrant does not possess the necessary degree of training, skill, knowledge and experience to provide the advice or treatment in an appropriate and safe manner.
26. To diagnose a patient and provide treatment in an appropriate and safe manner, acupuncturists must have information about a patient's health condition. The Patient Records Standards discuss information that acupuncturists should obtain and record:
- 2.3.2.12 The SOAP (subjective data, objective data, assessment, plan) method of documenting patient information is recommended and may assist with completeness of records:
- 2.3.2.12.2: **Objective data:** Measurable assessment findings obtained by the registered acupuncturist or other health care professionals involved in the patient care; positive and negative physical findings (pulse characteristics, tongue presentation, measured range of motion, swelling, vital signs [such as blood pressure, lab tests, negative orthopedic test results], etc.); and reassessment results of objective findings throughout the treatment process.
- 2.3.2.12.3: **Assessment:** Working Traditional Chinese Medicine (TCM) diagnosis, differential diagnosis.
27. Ms. Rumball did not provide DZ's treatment in an appropriate or safe manner, and she did not obtain the information necessary to properly diagnose DZ and assess the source of DZ's contractions. The Hearing Tribunal also observed that the treatment Ms. Rumball administered was inconsistent with her own risk assessments and DZ's treatment goals.
28. Ms. Rumball understood that DZ's treatment goal was to have the acupuncture treatment induce labour. However, Ms. Rumball considered it unsafe to induce labour at

DZ's stage of pregnancy and recommended cupping to relax muscles and promote circulation, and needles to produce further relaxation.

29. Despite Ms. Rumball's assessment that it was unsafe to induce labour, she used acupuncture point GB21, which is used to do exactly that. GB21 is contraindicated in pregnant patients specifically for that reason.
30. The Agreed Statement of Facts and Admission of Unprofessional Conduct indicated DZ was in her third trimester of pregnancy. However, the Hearing Tribunal observed some inconsistency in the supporting documentation as to whether DZ had been 35 weeks or 39 weeks along in pregnancy. The investigator's notes indicate that DZ stated they were 39 weeks along, while Ms. Rumball thought DZ was 35 weeks along.
31. It is important that acupuncturists appropriately diagnose and understand the state of a patient's pregnancy. There are different treatment implications for a patient that is 35 weeks along and a patient that is 39 weeks along. An acupuncturist must assess the patient's goals and methods of treatment in light of the patient's stage of pregnancy and the associated risks.
32. While it is not necessary for the Hearing Tribunal to make a finding as to whether DZ's pregnancy was 35 weeks or 39 weeks along, Ms. Rumball's understanding is relevant to the Hearing Tribunal's determination of whether her conduct demonstrated a lack of knowledge, skill or judgment. If DZ was 35 weeks along as Ms. Rumball said to the investigator, and DZ was experiencing Braxton-Hicks contractions as Ms. Rumball recorded in the treatment notes, DZ's contractions may have been false contractions. If DZ's water had broken at 35 weeks, the baby could have been harmed. Ms. Rumball's use of acupuncture point GB21, which can induce labour, is inconsistent with her own understanding of DZ's health condition and pregnancy at the time.
33. As indicated in previous paragraphs, Ms. Rumball recommended cupping to relax DZ's muscles and promote circulation, and needles to produce further relaxation. The Hearing Tribunal is not aware of cupping or electrostimulation being used as a relaxation technique for patients who are in their third trimester of pregnancy.
34. The Hearing Tribunal finds that Ms. Rumball's conduct demonstrates a lack of knowledge, skill, or judgment in the provision of professional services. Her conduct also contravened sections 2.3 and 3.2 of the Code of Professional Conduct, section 5.13 of the Standards of Competency and Practice, and sections 2.3.2.12.2, 2.3.2.12.3, of the Patient Records Standards. Accordingly, the Hearing Tribunal finds that Ms. Rumball's conduct is unprofessional conduct as defined in sections 1(1)(pp)(i),(ii), and (xii).

Allegation 3

35. The Hearing Tribunal accepts Ms. Rumball's admission that she failed to ensure that electronically stored patient records were backed up regularly.
36. The Hearing Tribunal finds that Ms. Rumball's conduct breaches the following sections of the Patient Records Standards:

2.1 Privacy, security and confidentiality of patient records

2.1.1 Registered acupuncturists are expected to keep all patient information confidential. As such, registered acupuncturists must adopt measures to ensure the confidentiality and security of patient information recorded in the patient records.

2.1.4 Patient records shall be stored in a safe way that ensures security and privacy.

2.5.1 Electronic patient records

2.5.1.4 Electronically stored patient records should be backed up regularly with the same protection measures in place.

37. Ms. Rumball's conduct also breached the Standards of Competency and Practice:

Patient Records

5.21 An acupuncturist shall respect the confidentiality of patient records and shall store patient records in a secure place.

38. Given the Complaints Director's submission that acupuncturists are not captured by the *Health Information Act*, the Hearing Tribunal does not see that it is necessary to make a finding whether Ms. Rumball's conduct contravened the *Health Information Act*.

VII. SUBMISSIONS ON SANCTIONS

Submissions by Counsel for the Complaints Director

39. The Complaints Director and Ms. Rumball presented a Joint Submission on Sanction for the Hearing Tribunal's consideration. Ms. Gagnon advised that the Hearing Tribunal's authority to make the proposed orders was set out in section 82 of the *HPA*.

40. The Joint Submission on Sanction included the following orders:

- a. Ms. Rumball shall receive a reprimand and the written decision of the Hearing Tribunal shall serve as the reprimand.
- b. Ms. Rumball shall be suspended from practice for a period of two weeks starting the day following the conclusion of the hearing or such other date as may be agreed to by the Complaints Director.
- c. Ms. Rumball shall provide a written confirmation to the Complaints Director within 30 days of the hearing date that she has reviewed the Guidance for Electronic Health Record Systems published by the Office of the Privacy Commissioner of Alberta and

that she has implemented the necessary safeguards to manage electronic records containing health information of patients.

- d. Ms. Rumball shall provide a written confirmation to the Complaints Director within 30 days of the hearing date that she has reviewed the College of Acupuncturists of Alberta Code of Professional Conduct, Standards of Competency and Practice and Patient Records Standards.
 - e. Within 90 days of the hearing date, Ms. Rumball will successfully complete, at her own cost, the following courses and provide a certificate of completion to the Complaints Director:
 - i. Disclosing harm from healthcare delivery offered through Canadian Medical Protective Association (CMPA); and
 - ii. Ethics in the Field of Acupuncture, Beginner Course through Eastern Currents.
 - f. If a course is no longer available or if the Complaints Director determines that the course cannot be reasonably completed by Ms. Rumball, then Ms. Rumball may complete an alternative course, to be approved in writing in advance by the Complaints Director.
 - g. Within 120 days of the hearing date, Ms. Rumball shall prepare a reflection paper in English of a minimum 1000 words, acceptable to the Complaints Director, describing the situation, what should have been done, and how Ms. Rumball will change her practice going forward.
 - h. Ms. Rumball shall not receive any continuing competence credits for reviewing the Code of Professional Conduct or Standards of Practice, for any courses taken, or for preparing a reflection paper.
 - i. Ms. Rumball shall be responsible for payment of 10% of the costs of the investigation and hearing. The costs shall be paid within 24 months of the hearing date and can be paid in monthly installments or on payment terms agreeable to the Complaints Director.
41. Ms. Gagnon submitted that the Joint Submission on Sanction included both deterrent and remedial orders. Specifically, the reprimand and suspension served deterrence purposes. Ms. Gagnon advised that the Complaints Director considered suspensions and fines when negotiating the Joint Submission on Sanction. Given Ms. Rumball's financial circumstances, the Complaints Director determined that a suspension was more appropriate than a fine.
42. Ms. Gagnon submitted that the Hearing Tribunal should consider general principles of sanction to evaluate the Joint Submission on Sanction. Sanctions should focus on public protection, the need to deter the specific member and the profession from engaging in similar conduct, and the need to promote public confidence in the integrity of the

profession and its ability to regulate its members. Ms. Gagnon submitted that the Joint Submission on Sanction satisfied these requirements.

43. Ms. Gagnon referred the Hearing Tribunal to the case of *Jaswal v Newfoundland Medical Board*, 1996 CanLII 11630 (NL SC) ("*Jaswal*"), which describes factors for discipline tribunals to consider when deciding appropriate sanctions orders. Ms. Gagnon's submissions on the *Jaswal* factors were as follows:
- a. Nature and gravity of the proven allegations: Ms. Rumball's proven conduct is serious. DZ was significantly along in their pregnancy and close to their due date. DZ was anxious and was left unattended in the treatment room for a long period of time.
 - b. Age and experience of the regulated member: Ms. Rumball first registered with the College in 2010. Her unprofessional conduct did not arise out of a lack of experience.
 - c. Previous character of the regulated member and in particular the presence or absence of any prior complaints or convictions: There are no previous findings of unprofessional conduct against Ms. Rumball. This factor is mitigating.
 - d. Number of times the offence was proven to have occurred: Ms. Rumball's proven conduct involved a single incident with one patient. There is no demonstrated pattern of unprofessional conduct.
 - e. Role of the regulated member in acknowledging what had occurred: Ms. Rumball acknowledged that her conduct was unprofessional and apologized very early in the process. There was no need for witnesses, and she saved the College the time and expense of holding a contested hearing. Ms. Rumball's acknowledgment of unprofessional conduct should give the Hearing Tribunal comfort because she has demonstrated recognition of the seriousness of her conduct.
 - f. Whether the regulated member had already suffered other serious financial or other penalties as a result of the allegations having been made: The Complaints Director was not aware of any other serious financial or other penalties Ms. Rumball experienced as a result of the Allegations.
 - g. Impact of the incident on the offended patient: Ms. Gagnon referred the Hearing Tribunal to DZ's complaint dated November 14, 2022 (Exhibit 1, Tab 1). The complaint showed that Ms. Rumball's conduct had a serious impact on DZ's emotional state and caused her serious anxiety.
 - h. Presence or absence of any mitigating circumstances: Ms. Gagnon indicated that Ms. Rumball's difficult personal circumstances at the time of her unprofessional conduct were mitigating. Ms. Rumball's lack of a prior discipline history and acknowledgment of unprofessional conduct were also mitigating.

- i. Need to promote specific and general deterrence and, thereby, to protect the public and ensure the safe and proper practice of the profession: The proposed orders would deter Ms. Rumball specifically and the profession generally from engaging in similar unprofessional conduct in the future.
 - j. Need to maintain the public's confidence in the integrity of the profession: The Joint Submission on Sanction will maintain public confidence in the profession.
 - k. Degree to which the offensive conduct that was found to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct: When Ms. Rumball's conduct is considered in light of the College's Code of Professional Conduct and Standards of Conduct, her conduct is clearly unprofessional conduct. Her actions are not in a grey area.
 - l. Range of sentence in other similar cases: Ms. Gagnon advised that previous cases usually involved a reprimand and a fine or suspension in combination with remedial orders. The Joint Submission on Sanction accorded with previous cases.
44. Ms. Gagnon noted that the Joint Submission on Sanction included an order that Ms. Rumball would pay 10% of the costs. Ms. Gagnon submitted that the costs order was justified and consistent with *Jinnah v Alberta Dental Association and College, 2022 ABCA 336*, because Ms. Rumball's conduct is serious unprofessional conduct.
45. In response to a question from the Hearing Tribunal, Ms. Gagnon advised that the total costs incurred by the College were between \$13,000 and \$15,000. This costs estimate did not involve the costs of the hearing on November 6, 2023.
46. Ms. Gagnon informed the Hearing Tribunal that it was not bound to accept the Joint Submission on Sanction. However, the Hearing Tribunal should not lightly deviate from the Joint Submission on Sanction. To reject the Joint Submission on Sanction, the Hearing Tribunal must find that the sanctions are not reasonable and would bring the administration of justice into disrepute. Ms. Gagnon further referred the Hearing Tribunal to the Supreme Court of Canada's decision in *R v Anthony Cook, 2016 SCC 43* and *Timothy Edward Bradley v Ontario College of Teachers, 2021 ONSC 2303*.
47. Ms. Gagnon concluded her submissions by noting that the proposed sanctions orders served the public interest and rehabilitated Ms. Rumball to ensure future safe practice.

Submissions by the Registrant

48. Ms. Rumball agreed with Ms. Gagnon's submissions on sanctions. She advised that she required a payment plan.

VIII. DECISION ON SANCTIONS

49. The Hearing Tribunal began its evaluation of the Joint Submission on Sanction with recognition that it owed deference to the parties' proposed orders. The Joint Submission on Sanction should only be rejected if it brings the discipline process into disrepute.
50. The Hearing Tribunal agreed that Ms. Rumball's conduct was very serious. However, there are mitigating circumstances present that support orders for remedial or rehabilitative sanctions. The Joint Submission on Sanction served the general principles for sanctions orders, and in the Hearing Tribunal's view, did not bring the College's discipline process into disrepute.
51. The Hearing Tribunal recognized that Ms. Rumball's unprofessional conduct related to one patient at a single appointment. The Agreed Statement of Facts and Admission of Unprofessional Conduct did not demonstrate a recurring pattern of unprofessional conduct that would create an elevated risk of future public harm.
52. Ms. Rumball also acknowledged her actions were inappropriate at a very early stage. She apologized to DZ and BZ before they left her house on August 26, 2022. Ms. Rumball maintained her apology in her submissions to the Hearing Tribunal. The Hearing Tribunal gave significant weight to Ms. Rumball's apologies. Her actions after the conduct demonstrate remorse and suggest that she will be deterred from acting similarly in the future.
53. Before the hearing, Ms. Rumball took steps to address the underlying circumstances that contributed to her conduct. On August 26, 2022, Ms. Rumball was experiencing difficult personal circumstances. She was tired and had been up late with a child. At the hearing, Ms. Rumball indicated that she had gone to therapy and seen a sleep consultant.
54. The orders in the Joint Submission on Sanction will require Ms. Rumball to review the Office of the Information and Privacy Commissioner of Alberta's Guidance for Electronic Health Record Systems, the College's Code of Professional Conduct, Standards of Competency and Practice and Patient Records Standards. She will also be required to complete educational courses. By performing these orders, Ms. Rumball will be reeducated about her professional and ethical obligations.
55. For all the above reasons, the Hearing Tribunal decided to accept the Joint Submission on Sanction and to make the orders proposed by the parties. The Hearing Tribunal is satisfied that the sanctions orders will serve the public interest and rehabilitate Ms. Rumball to ensure future safe practice.
56. The Hearing Tribunal would like to commend Ms. Rumball and the Complaints Director for working together to produce the Agreed Statement of Facts and Admission of Unprofessional Conduct and the Joint Submission on Sanction.

IX. ORDER OF THE HEARING TRIBUNAL

57. For the reasons set out above, the Hearing Tribunal finds that Allegations 1, 2 and 3 are proven on a balance of probabilities and amount to professional misconduct.
58. The Hearing Tribunal makes the following orders:
 - a. Ms. Rumball shall receive a reprimand and the written decision of the Hearing Tribunal shall serve as the reprimand.
 - b. Ms. Rumball shall be suspended from practice for a period of two weeks starting the day following the conclusion of the hearing or such other date as may be agreed to by the Complaints Director.
 - c. Ms. Rumball shall provide a written confirmation to the Complaints Director within 30 days of the hearing date that she has reviewed the Guidance for Electronic Health Record Systems published by the Office of the Information and Privacy Commissioner of Alberta and that she has implemented the necessary safeguards to manage electronic records containing health information of patients.
 - d. Ms. Rumball shall provide a written confirmation to the Complaints Director within 30 days of the hearing date that she has reviewed the College of Acupuncturists of Alberta Code of Professional Conduct, Standards of Competency and Practice and Patient Records Standards.
 - e. Within 90 days of the hearing date, Ms. Rumball will successfully complete, at her own cost, the following courses and provide a certificate of completion to the Complaints Director:
 - i. Disclosing harm from healthcare delivery offered through Canadian Medical Protective Association (CMPA); and
 - ii. Ethics in the Field of Acupuncture, Beginner Course through Eastern Currents.
 - f. If a course is no longer available or if the Complaints Director determines that the course cannot be reasonably completed by Ms. Rumball, then Ms. Rumball may complete an alternative course, to be approved in writing in advance by the Complaints Director.
 - g. Within 120 days of the hearing date, Ms. Rumball shall prepare a reflection paper in English of a minimum 1000 words, acceptable to the Complaints Director, describing the situation, what should have been done, and how Ms. Rumball will change her practice going forward.
 - h. Ms. Rumball shall not receive any continuing competence credits for reviewing the Code of Professional Conduct or Standards of Practice, for any courses taken, or for preparing a reflection paper.

- i. Ms. Rumball shall be responsible for payment of 10% of the costs of the investigation and hearing. The costs shall be paid within 24 months of the hearing date and can be paid in monthly installments or on payment terms agreeable to the Complaints Director.

Dated this 18 day of December 2023.

Signed on behalf of the Hearing Tribunal of the College of Acupuncturists of Alberta.



K. Kelly, Chair