

**IN THE MATTER OF A HEARING BEFORE THE HEARING TRIBUNAL
OF THE COLLEGE OF PHYSIOTHERAPISTS OF ALBERTA
INTO THE CONDUCT OF MARJORIE MUSNI
PURSUANT TO THE *HEALTH PROFESSIONS ACT*, RSA 2000, c. H-7**

DECISION OF THE HEARING TRIBUNAL

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I. INTRODUCTION

[1] A hearing of the Hearing Tribunal of the College of Physiotherapists of Alberta (the “**College**”) was held on October 30, 2025 by videoconference.

[2] The members of the Hearing Tribunal were:

Wendy Coombs, PT, Regulated Member, Chair
Vikram Krishnan, PT, Regulated Member
Andrew Otway, Public Member
Georgeann Wilkin, Public Member

[3] Also in attendance were:

Simon Cooke, Complaints Director
Vita Wensel, Legal Counsel for the Complaints Director
Marjorie Musni, Investigated Member (the “**Investigated Member**” or “**Ms. Musni**”)
Athyna Wolf, Legal Counsel for Ms. Musni
Julie Gagnon, Independent Legal Counsel for the Hearing Tribunal
Haylee O’Reilly, Hearings Administrator
Cheryl Blahut, Conduct Coordinator
Jessica Young, Court Reporter

II. PRELIMINARY MATTERS

[4] The parties confirmed that there were no objections to the members of the Hearing Tribunal or the Hearing Tribunal’s jurisdiction to hear the matter. The parties confirmed there were no preliminary matters to be raised.

[5] The hearing was open to the public pursuant to section 78(1) of the *Health Professions Act*, RSA 2000, c. H-7 (the “**HPA**”). No application was made to close the hearing to the public. However, Ms. Wensel requested that the Patient be referred to as the Patient or by her initials in the hearing, transcript and decision of the Hearing Tribunal. Ms. Wolf had no concerns with this approach. The Hearing Tribunal issued a direction that the Patient be referred to as the Patient or by her initials in the hearing and transcript.

III. EXHIBITS

- [6] Ms. Wensel, on behalf of the Complaints Director, advised that the parties had entered into an Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct (the “**Agreement**”). The following exhibits were entered during the course of the hearing:

Exhibit 1 – Agreed Statement of Facts

Exhibit 2 – Attachments to the Agreed Statement of Facts

Tab 1 - Complaint letter

Tab 2 - Interim Order

Tab 3 - Notice of Hearing and Notice to Attend as Witness

Tab 4 - *Health Professions Act*, RSA 2000, c. H-7, s. 1.3

Tab 5 - Physical Therapists Profession Regulation, Alta Reg 64/2011

Tab 6 - History of the Patient’s treatment sessions

Tab 7 - Photo of needles

Tab 8 - Copy of X-rays

Tab 9 - Emergency Room Records

Tab 10 - Jan 16, 2023 Chart Note

Tab 11- Chart access metadata

Tab 12 - Incident Report

Tab 13 - *Health Professions Act*, RSA 2000, c. H-7, section 1(1)(pp)

Tab 14 - Code of Ethical Conduct

Tab 15 - Standards of Practice

Tab 16 - Supervision Guide - June 2021

Exhibit 3 – Joint Submission on Penalty

Exhibit 4 – Complaints Director Statement of Anticipated Costs

- [7] A book of case law was also provided to the Hearing Tribunal, with the following:

Tab 1 - *Jaswal v. Medical Board (Nfld.)*, 1996 Canlii 11630 (NL SC)

Tab 2 - *R v Anthony-Cook*, 2016 SCC 43

Tab 3 - *Timothy Edward Bradley v. Ontario College of Teachers*, 2021 ONSC 2303

Tab 4 - *Charkhandeh v College of Dental Surgeons of Alberta*, 2025 ABCA 258

Tab 5 - Decision of the Hearing Tribunal –Moiz

Tab 6 - Decision of the Hearing Tribunal - Khairmode

IV. ALLEGATIONS

- [7] The allegations in the Notice of Hearing and Notice to Attend as Witness (the “**Notice of Hearing**”) are:

1. On or about January 16, 2023, you failed to perform dry needling in a competent manner to Patient GA, the particulars of which include:

- a. you assigned the monitoring and removal of dry needles from Patient GA's body to an unregulated person and physiotherapy support worker, Ms. JD;
 - b. you left the Clinic shortly after inserting dry needles into Patient GA's body;
 - c. you were not physically present in the Clinic when the dry needles were removed from Patient GA's body by Ms. JD;
 - d. you did not document the administration and/or removal of dry needles, including the number of needles inserted in Patient GA's body, prior to assigning the removal of the dry needles to Ms. JD.
2. Between January 17, 2023 and February 7, 2023, you failed to adequately respond to an adverse event (a needle embedded in Patient GA's arm/shoulder area), the particulars of which include:
 - a. you did not document a telephone call with Patient GA where she advised you that she found a needle embedded in her arm/shoulder area, despite it being an adverse event arising from your physiotherapy services;
 - b. on January 18, 2023 with further modifications on February 2, 2023, you prepared your chart note for the January 16, 2023 appointment with Patient GA after you were aware of an adverse event arising from your physiotherapy services.

IT IS FURTHER ALLEGED THAT your conduct constitutes "unprofessional conduct" as defined in s. 1(1)(pp)(i), (ii), and (xii) of the *Health Professions Act*, R.S.A. 2000, c. H-7 (the "HPA"). In particular, it is alleged that:

1. Dry needling is a restricted activity as defined by section 1.3 of the HPA and governed by the *Physical Therapist Profession Regulation*, AR 64/2011 (in force between May 2011 and April 2023).
2. Your conduct breaches one or more of the following:
 - a. Code of Ethical Conduct for Alberta Physiotherapists: Responsibilities to the Client (A12, A13, A14, A15, C3);
 - b. Standards of Practice for Physiotherapists in Alberta: Performance of Restricted Activities (2017), and, with consideration to, the Supervision Guide for Alberta Physiotherapists (June 2021);

- c. Standards of Practice for Physiotherapists in Alberta: Client Assessment, Diagnosis, Interventions (2017);
- d. Standards of Practice for Physiotherapists in Alberta: Documentation (2017).

(referred to altogether as the “**Allegations**”)

V. AGREEMENT AND ADMISSION OF UNPROFESSIONAL CONDUCT

- [8] The parties presented the Agreement (Exhibits 1 and 2) to the Hearing Tribunal. Ms. Musni admitted to the conduct in the Allegations.
- [9] The following agreed facts are taken from the Agreement.

Background Relating to the Complaint

- [10] Ms. Musni became a regulated member of the College on the provisional register in 2013 and was subsequently registered on the general register in 2016.
- [11] On May 14, 2024, the College received a complaint (the “**Complaint**”) from a Patient. The Patient was a former client of Ms. Musni. The Complaint alleged that a needle was left in the Patient's arm and shoulder area after dry needling, causing her harm and injury.
- [12] At all relevant times of the Complaint, Ms. Musni was employed as a physiotherapist at CBI Health in Red Deer, Alberta (referred to hereafter as the “**Clinic**”).
- [13] On June 25, 2024, the Chair of the Registration committee, Mr. Keating, issued an interim order in accordance with section 65 (the “**Interim Order**”) that Ms. Musni's practice be restricted by requiring all patients to complete a declaration that Ms. Musni removed all their dry needles and that those declarations be sent to the Complaints Director regularly. The Interim Order remained in effect on the date of the hearing.
- [14] The Complaints Director directed that the Complaint be investigated. The investigation report for the Complaint was submitted to the Complaints Director on February 22, 2025. Following receipt of the investigation report, the Complaints Director determined there was sufficient evidence that the Complaint should be referred to the Hearings Director for a hearing in accordance with s. 66(3)(a) of the HPA.
- [15] On May 6, 2025, Ms. Musni received notice that the Complaint was referred to a hearing. A Notice of Hearing and Notice to Attend of the scheduled hearing was provided to Ms. Musni on August 28, 2025.

Facts Relating to the Conduct

- [16] Administering dry needling is a restricted activity, as defined by the HPA. Specifically, section 1.3 of the HPA, establishes several high-risk activities that are "restricted activities", which may only be performed by regulated members as part of providing a health service if the regulated member is authorized to do so. Dry needling constitutes a restricted activity, because it involves performing an invasive procedure on body tissue below the dermis. At the time, restricted activities were also governed by sections 3-15 of the *Physical Therapist Profession Regulation* (in force between May 2011 and April 2023 and at the time of the conduct alleged). These provisions have since been repealed and replaced with a general regulation for all professions.
- [17] Dry needling involves inserting a thin needle into the skin and muscle directly and then removing the needle from the skin and muscle. There are many different possible techniques for performing dry needling including trigger point dry needling, traditional acupuncture, and intramuscular stimulation.
- [18] A practitioner will complete landmarking on a client's body based on standard anatomy to determine where to place the needle, the direction of the needle and how deep to place the needle. Training is provided on techniques, risks, potential adverse events, obtaining consent and landmarking. A physiotherapist must demonstrate professional skill, judgment, and knowledge in order to perform dry needling competently. The number of needles should be documented by a physiotherapist upon entry and removal.
- [19] Physiotherapists on the general register who have completed a post-entry-level needling education program and who have received authorization from the College may perform dry needling as part of their physiotherapy practice. Ms. Musni completed her dry needling training in 2017. Effective July 10, 2018, Ms. Musni was authorized by the College to perform dry needling in her practice.
- [20] As dry needling is a restricted activity, a physiotherapist must perform all parts of needling. Needling cannot be delegated to non-regulated individuals, such as physiotherapy assistants (also known as physiotherapy support personnel).
- [21] Ms. Musni began seeing the Patient on September 15, 2022 for a workplace injury and pain in her left shoulder. The Patient's appointments were paid by Workers Compensation Board ("**WCB**"). During the first appointment, Ms. Musni obtained the Patient's verbal consent for treatment.
- [22] Between September 2022 until December 2022, Ms. Musni performed regular physiotherapy treatment of the Patient, including dry needling. Between December 2022 and January 2023 Ms. Musni was out of the country, so another practitioner performed physiotherapy treatment on the Patient. Ms. Musni's first day back to work was January 16, 2023, the date of the Patient's last appointment.
- [23] On January 16, 2023, Ms. Musni performed physiotherapy treatment on the Patient, including dry needling. Ms. Musni inserted the needles into the Patient's body, on her

neck, arm and shoulder area. No documentation was created by Ms. Musni during the appointment about the dry needling, including the number of needles in the Patient's body.

- [24] After inserting the needles, Ms. Musni asked JD, a physiotherapy support person, to wait fifteen minutes and then remove the needles from the Patient. Ms. Musni provided instructions to JD about removing the needles. JD had not been present in the treatment area when Ms. Musni inserted the needles. JD had no formal education in dry needling, was not a physiotherapist and was not authorized to perform the restricted activity of dry needling.
- [25] Ms. Musni then left the Clinic. She did not tell the Patient that she was leaving nor speak with the Patient about JD removing the needles. Ms. Musni was not physically present in the Clinic when JD removed the needles.
- [26] While waiting in the treatment area, the Patient took a photo of the needles in her body and texted it to her husband.
- [27] After an unknown time, JD came to the treatment area and told the Patient that Ms. Musni had left. JD then removed the needles from the Patient's body. The Patient recalls that they chatted together. After the needles were removed, JD told her she could leave, the Patient put on her jacket and the appointment thereafter ended. Ms. Musni did not have any further contact with the Patient that day.
- [28] After leaving the Clinic, the Patient felt tired and dizzy. She went home and fell asleep with her jacket on.
- [29] The next day, the Patient found a needle attached to her jacket. She also felt pain and swelling in her arm. She went to the emergency room and received an x-ray. The x-ray revealed that a needle was embedded in her arm and was very close to the bone.
- [30] On January 18, 2023, the Patient and Ms. Musni talked on the phone and the Patient told her about the embedded needle. During the call the Patient felt that she was blamed for the needle remaining in her arm. This phone call was not documented by Ms. Musni, despite the Patient advising Ms. Musni of a serious adverse event.
- [31] On January 18, 2023, and after she learned of the concerns from the Patient, Ms. Musni created her chart note for the appointment on January 16, 2023. The chart note did not include any information to reflect that she was aware of the needle embedded in the Patient's arm. The chart note describes the number of needles and their locations, but this information was not completed contemporaneously by Ms. Musni. A copy of the chart access metadata shows that the chart entry was also viewed and modified by Ms. Musni on February 2, 2023.

- [32] On January 19, 2023, Ms. Musni called the Patient's WCB caseworker and was told to have no further contact with the Patient. The Patient described sending emails and making a google review and felt that her concerns were not addressed.
- [33] On January 20, 2023, and after she learned of the concerns from the Patient, Ms. Musni completed an incident report.
- [34] According to the Patient, she has visited surgeons about the needle in her arm but they all declined to remove it from her body as there is a risk of loss of function to her arm due to its location.
- [35] The Patient experiences depression, stress, anxiety and pain due to the needle in her arm. She was diagnosed with complex regional pain syndrome. The injury has had long-lasting impacts on the Patient.

Acknowledgement of Unprofessional Conduct

- [36] In the Agreement, Ms. Musni acknowledges that her conduct amounts to unprofessional conduct within the meaning of section 1(1)(pp) of the HPA, specifically her conduct:
 - a. Constitutes a lack of knowledge, skill or judgment in the provision of professional services (s.1(1)(pp)(i));
 - b. Contravenes the College's Code of Ethical Conduct and Standards of Practice in force at the time (2017), and with consideration to the Supervision Guide for Alberta Physiotherapists (June 2021), (s.1(1)(pp)(ii)), specifically:
 - i. Code of Ethical Conduct for Alberta Physiotherapists, Responsibilities to the Client:
 - A12: Practice in a safe, competent, accountable and responsible manner during the provision of services.*
 - A13: Take all reasonable steps to prevent harm to clients. Should harm occur disclose it to the client and others as required.*
 - A14: Take responsibility for the client care delegated to students and other members of the health-care team.*
 - A15: Practice the profession of physiotherapy according to their own competence and limitations, referring the client to others as necessary.*
 - C3: Act honestly, transparently and with integrity in all professional and business practices to uphold the reputation of the profession.*

- ii. Standards of Practices for Physiotherapists in Alberta, Client Assessment, Diagnosis, Interventions:

The physiotherapist demonstrates proficiency in client assessment, diagnosis, and interventions to deliver quality client-centered services.

- iii. Standards of Practices for Physiotherapists in Alberta, Documentation and Record Keeping:

The physiotherapist maintains documents/records that are accurate, legible and complete, written in a timely manner, and in compliance with applicable legislation and regulatory requirements.

- iv. Standards of Practices for Physiotherapists in Alberta, Performance and Restricted Activities:

The physiotherapist performs restricted activities that they are authorized and competent to perform, within the context of physiotherapy practice, in accordance with the Standards of Practice, and when client assessment findings support their use.

- c. Is conduct that harms the integrity of the regulated profession (s.1(1)(pp)(xii)).

VI. SUBMISSIONS OF THE PARTIES

Submissions on Behalf of the Complaints Director

- [37] Ms. Wensel submitted that the Hearing Tribunal must review the evidence and consider whether the conduct in the Allegations is proven, on a balance of probabilities.
- [38] Ms. Wensel reviewed the Allegations and provided a general overview of the conduct in the Agreement, with reference to certain attachments in Exhibit 2.
- [39] Ms. Wensel submitted that the Hearing Tribunal should accept the Agreement and noted that it had been admitted to and agreed to by Ms. Musni.
- [40] Ms. Wensel noted that dry needling is a restricted activity and that Ms. Musni obtained authorization to perform this restricted activity in 2018.
- [41] Ms. Wensel then submitted the Complaints Director's position that the Allegations before the Hearing Tribunal were factually proven and that the conduct constitutes unprofessional conduct.
- [42] Ms. Wensel's concluded by noting that Ms. Musni's conduct constitutes "unprofessional conduct" as defined in s. 1(1)(pp)(i), (ii), and (xii) of the HPA. Ms. Wensel referenced the Supervision Guide for Alberta Physiotherapists (June 2021) and noted that the

Supervision Guide indicates that restricted activities can never be assigned to support workers. Ms. Wensel noted that the breaches of the Standards of Practice are admitted to with reference to this guiding document.

- [43] Ms. Wensel noted that Ms. Musni was in a position to know this was a restricted activity. She left the Clinic while the Patient had needles in her shoulder and assigned the removal of the needles to a support worker. Ms. Musni did not practice in a safe and competent manner that day.
- [44] Ms. Wensel emphasized that the physiotherapist is the professional in the room and as such, is the person responsible for the performance of the restricted activity. Ms. Wensel noted that this type of conduct can lead to a breakdown of trust in the profession.

Submissions by the Investigated Member

- [45] Ms. Wolf noted her agreement with the submissions of Ms. Wensel and urged the Hearing Tribunal to accept the agreed facts and admission of unprofessional conduct.
- [46] Ms. Wolf noted that Ms. Musni has been cooperative and remorseful throughout this process and has complied with the interim order issued under section 65 of the HPA (Exhibit 2, Tab 2). Ms. Musni has learned from this experience and from her daily reporting to the Complaints Director for the past year and a half.

VII. DECISION OF THE HEARING TRIBUNAL ON THE ALLEGATIONS

- [47] Following submissions on the Agreement, the Hearing Tribunal adjourned to deliberate.
- [48] The Hearing Tribunal's tasks at this stage is to determine if the facts underlying the Allegations have been established, and if so, whether this conduct amounts to unprofessional conduct under the HPA.
- [49] The Hearing Tribunal found that it is clear from the Agreement that the Allegations in the Notice of Hearing are proven. The Hearing Tribunal found that the conduct in the Allegations constitutes unprofessional conduct, as admitted by Ms. Musni and agreed to by both of the parties as set out in the Agreement.
- [50] Further, the Hearing Tribunal found that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the HPA. In particular, the Hearing Tribunal found the following definitions of unprofessional conduct were met:
 - (i) displaying a lack of knowledge of or a lack of skill or judgment in the provision of professional services;
 - (ii) contravention of the HPA, a Code of Ethics or Standards of Practice; and
 - (xii) conduct that harms the integrity of the regulated profession.

VIII. REASONS AND FINDINGS OF THE HEARING TRIBUNAL ON THE ALLEGATIONS

- [51] The Hearing Tribunal found that Ms. Musni showed a serious lack of knowledge, skill or judgment in the provision of professional services. Dry needling is a restricted activity. Physiotherapists who perform dry needling must ensure they do so in accordance with the required standard expected of a physiotherapist and in accordance with the College's Standards of Practice. In particular, this cannot be delegated to non-regulated individuals. In addition, the failure to document the telephone call in which an adverse event was reported and the matter of creating and modifying her records, demonstrated a serious lack of judgment. Ms. Musni's conduct in Allegations 1 and 2 demonstrated a lack of knowledge, skill or judgment in the provision of professional services, constituting unprofessional conduct as defined in s. 1(1)(pp)(i) of the HPA.
- [52] The Hearing Tribunal also found that Ms. Musni contravened the Code of Ethics (A12, A13, A14, A15 and C3) and Standards of Practice for Physiotherapists in Alberta: Client Assessment, Diagnosis and Interventions; Documentation and Record Keeping and Performance of Restricted Activities, as noted above. The conduct at issue involved a failure to practice in a safe, competent, accountable and responsible manner and a failure to take reasonable steps to prevent harm to the client. Ms. Musni did not take responsibility for the restricted activity or act transparently and with integrity. There were breaches of expected standards, in the performance of the restricted activity and in her delivery of services to the Patient. There were also breaches in her record keeping practices. The breaches were serious enough to constitute unprofessional conduct as defined in s. 1(1)(pp)(ii) of the HPA.
- [53] The Hearing Tribunal found that the conduct in this case also harmed the integrity of the profession. The profession's integrity is undermined by allowing a non-regulated individual to perform an aspect of a restricted activity, here the removal of needles used in the dry needling process. Ms. Musni's conduct was unacceptable and harms the integrity of the profession. While harm to the Patient is not required to make a finding of unprofessional conduct, the harm that occurred to this Patient is significant. In addition, Ms. Musni's failure to document her telephone call with the Patient and the creation and subsequent modification of her notes of the appointment after learning of the adverse event, also undermines the integrity of the profession.

IX. JOINT SUBMISSION ON PENALTY

- [54] After finding that the conduct admitted to amounts to unprofessional conduct, the Hearing Tribunal indicated it would hear submissions on sanction.
- [55] The parties presented a Joint Submission on Penalty to the Hearing Tribunal.

Submissions on behalf of the Complaints Director

- [56] Ms. Wensel reviewed the proposed sanction. She submitted that there is a very high threshold for rejecting a joint submission on sanction, as per the Supreme Court of Canada's decision in *R v Anthony-Cook*. A high level of deference is owed and a Hearing Tribunal should not depart from a joint submission unless the proposed sanction would bring the administration of justice into disrepute or is otherwise contrary to the public interest.
- [57] Ms. Wensel also pointed to the case of *Bradley v Ontario College of Teachers* to show that this test has been applied in the context of professional disciplinary hearings. The Hearing Tribunal should review the proposed sanction as a whole and not engage in an exercise of tinkering with the sanction.
- [58] A joint submission on sanction avoids the time and expense of a contested hearing and of calling witnesses to give evidence. Ms. Wensel also highlighted that Ms. Musni had given up her right to contest the Allegations, which is done on the basis that there is a reasonable level of assurance that the joint submission on sanction will be accepted.
- [59] Ms. Wensel noted the following relevant factors from the case of *Jaswal v. Newfoundland Medical Board*, as noted by the Court of Appeal in *Charkhandeh v College of Dental Surgeons of Alberta* :
- a. *Seriousness of the conduct*: Ms. Wensel noted that the proven conduct in the Allegations is quite serious conduct.
 - b. *Factors relating to the fundamental purpose of sanctions*: Ms. Wensel submitted that this conduct merits a sanction that will promote deterrence and send a clear signal to the profession that this is unacceptable conduct.
 - c. *Character and personal attributes of the professional*: Ms. Wensel noted that Ms. Musni was an experienced physiotherapist at the time of the conduct. Ms. Musni has no prior complaints or discipline history with the College.
 - d. *Impact on the complainant*: Ms. Wensel noted that the medical records in Exhibit 2 and the agreed facts in Exhibit 1 show that there was serious harm to the Patient.
 - e. *Mitigating factors*: Ms. Musni is remorseful and has accepted responsibility.
 - f. *Impact of the sanction on the professional*: Ms. Wensel noted that Ms. Musni has been bound by the interim condition since June 2024. She will also receive a one month suspension, thereby affecting her ability to earn an income, if the joint submission on sanction is accepted.
 - g. *Parity*: Ms. Wensel pointed to other cases set out in the case law to show how similar cases have been addressed by other hearing tribunals.

- [60] Ms. Wensel noted that, considering all factors, the proposed sanction is fit, appropriate and reasonable and does not bring the administration of justice into disrepute.
- [61] Ms. Wensel noted that the suspension speaks to the nature and severity. The reprimand and suspension also address specific and general deterrence. The education component is aimed at remediation, an important factor noted by the Court of Appeal. The sanction achieves public protection as well.
- [62] Ms. Wensel also provided submissions on costs and noted that the parties agreed to the proposed costs order, being 25% of the costs, to a maximum of \$8,500 payable within 4 months.
- [63] Ms. Wensel noted that an agreement had been reached prior to the Court of Appeal's decision in *Charkhandeh*, but that the proposed order was still in keeping with the principles in *Charkhandeh*. Exhibit 4 sets out the current anticipated investigation and hearing costs, not including infrastructure costs or independent legal counsel fees. The current anticipated costs are approximately \$20,000.
- [64] The Court of Appeal noted in *Charkhandeh* that costs are not a further punishment. There is no presumption of costs payable by the regulator or member. A hearing tribunal should consider a number of factors, including: the number of allegations and success; the length and extent of the hearing; the reasonableness of the costs being proposed; whether there was inappropriate or unreasonable conduct during the hearing; the investigated member's circumstances and whether the costs would be crushing.
- [65] Ms. Wensel noted that Exhibit 4 showed that the costs to date were reasonably incurred and show that the matter has proceeded efficiently. She submitted that the proposed costs order was reasonable and should be accepted by the Hearing Tribunal.

Submissions by the Investigated Member

- [66] Ms. Wolf submitted that in *Anthony Cook*, the Supreme Court of Canada noted that a joint submission on sanction should only be rejected if it is "so unhinged" from the circumstances of the conduct that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, to believe the proper functioning of the justice system had broken down. This shows a very high level of deference is owed. The decision in *Bradley* speaks to the member giving up their right to contest the allegations in return for a high degree of confidence that the joint submission will be accepted.
- [67] In terms of the *Jaswal* factors, Ms. Wolf noted that although serious, this is the first complaint against Ms. Musni. She has acknowledged the conduct and cooperated throughout.
- [68] Ms. Wolf submitted that the joint submission on sanction will act as a significant deterrent for other members and will also have a significant impact on Ms. Musni, as her patients

will need to be transferred elsewhere during her period of suspension. She will also have no income during this period of time. The proposed sanction has a significant deterrence impact on Ms. Musni as well.

X. DECISION OF THE HEARING TRIBUNAL ON PENALTY

[69] Following submissions on Sanction, the Hearing Tribunal adjourned to deliberate.

[70] The Hearing Tribunal carefully considered the submissions of the parties. The Hearing Tribunal determined that it would accept the Joint Submission on Penalty presented by the parties. The parties were advised at the conclusion of the hearing that the Hearing Tribunal accepted the joint submission on sanction.

XI. REASONS AND FINDINGS OF THE HEARING TRIBUNAL ON PENALTY

[71] The Hearing Tribunal found that the proposed penalties were appropriate and reasonable and would protect the public interest. The Hearing Tribunal also noted that, when parties propose a joint submission on sanction, a high level of deference is owed.

[72] The Hearing Tribunal agreed with the submissions of Ms. Wensel on the factors to be considered. There was a serious and long-term impact on the Patient. She continues to have a needle in her arm. The medical records included show that there was significant impact and harm to the Patient.

[73] The Hearing Tribunal determined that a reprimand was appropriate and reasonable. The Hearing Tribunal noted that a reprimand would help accomplish the objectives of specific and general deterrence. It would make clear to Ms. Musni, and others, that the conduct is serious and unacceptable.

[74] The 30 day suspension is also appropriate in the circumstances. The Hearing Tribunal wishes to send a strong message to Ms. Musni and to the profession that such conduct is totally unacceptable. A physiotherapist cannot delegate restricted activities to a non-physiotherapist support worker. A period of suspension was warranted in this case.

[75] The Hearing Tribunal also agreed with the parties that it was appropriate for Ms. Musni to complete remedial work. While the Hearing Tribunal considered whether course work or a practice audit would have been appropriate, the Hearing Tribunal recognized the high level of deference owed to a joint submission on sanction and determined that the proposed paper was reasonable in the circumstances of the case. The Hearing Tribunal was not prepared to reject the joint submission but noted that Ms. Musni could consider taking additional courses on the issue of record keeping and delegation of duties.

[76] The Hearing Tribunal next considered the matter of costs and the submissions of the parties. The Hearing Tribunal found that an order of costs is appropriate and reasonable in the circumstances of this case. The starting point in *Charkhandeh* is whether an order

of costs should be made. The Hearing Tribunal found that costs should be ordered in this case. There was complete success and an admission on both Allegations in the Notice of Hearing. This weighed in favour of a costs order.

[77] The costs incurred to date are reasonable and the proposed order of 25% is appropriate. The cap to \$8,500 is also appropriate, as this will give certainty to Ms. Musni. Finally, the Hearing Tribunal noted that infrastructure and independent legal counsel fees were not being sought as part of the costs, in keeping with the comments of the Court in *Charkhandeh* that such costs should not generally be included.

[78] The Hearing Tribunal considered that Ms. Musni will be suspended for a period of 30 days, in which she will have no income. The Hearing Tribunal took into account that under the section 65 condition on her practice permit up to the date of the hearing, Ms. Musni continued to be able to practice and had only a reporting obligation. The Hearing Tribunal found that having regard to the information before it, the proposed costs order was not crushing.

[79] Having consideration to all of the factors, the proposed costs order is reasonable.

XII. ORDERS OF THE HEARING TRIBUNAL

[80] The Hearing Tribunal hereby orders, as follows:


1. Ms. Musni shall receive a reprimand and the Hearing Tribunal's decision (the "Decision") shall serve as the reprimand.
2. Ms. Musni's practice permit will be suspended for a period of thirty (30) days with the period of suspension to commence one (1) business day following the date of the Hearing, if the Hearing Tribunal confirms the Orders orally. In the event the Hearing Tribunal does not confirm the Orders orally, the suspension shall commence seven (7) business days following the date when Ms. Musni receives the Decision.
3. Within ninety (90) days of receiving the decision, Ms. Musni shall submit a written reflective essay (the "Essay") to the Complaints Director for his approval and on the following terms and conditions:
 - a. The Essay must be titled "The Importance of Patient Safety: Performing Dry Needling as a Physiotherapist";
 - b. The Essay must be at least twelve hundred (1200) words and be typed;
 - c. The Essay must not include any content that is generated or created by artificial intelligence or anyone other than Ms. Musni;

- d. Ms. Musni must review the following information prior to writing the Essay:
 - i. The College's Standards of Practice;
 - ii. The College's Code of Ethical Conduct;
 - iii. The College's Restricted Activities webpage, "Using needles in practice".
 - e. The Essay must demonstrate and describe:
 - i. Ms. Musni's understanding of her obligations and responsibilities as a physiotherapist related to performing dry needling, referencing the information reviewed by Ms. Musni.
 - ii. At least five (5) learnings from Ms. Musni's interim monitoring (pursuant to section 65 of the HPA) during the complaint process, including changes and improvements about:
 - a) Ms. Musni's practice of performing dry needling on patients;
 - b) Ms. Musni's practices as a physiotherapist generally;
 - c) Ms. Musni's supervision and direction of non-regulated physiotherapy assistants.
4. Ms. Musni shall pay twenty-five percent (25%) of the total costs of the investigation and hearing, to a maximum of \$8,500 (the "Costs") and on the following terms:
- a. the Costs are due four (4) months Ms. Musni receives a copy of the Decision;
 - b. the Costs must be paid to the College, whether or not Ms. Musni holds an active practice permit with the College; and
 - c. the Costs are a debt owed to the College and if not paid by the deadline indicated, may be recovered by the College as an action of debt.
5. Should Ms. Musni be unable to comply with the deadlines identified above, she may apply to the Complaints Director for an extension, by submitting a written request prior to the deadline. Extensions may be granted in the sole discretion of the Complaints Director.

6. The Interim Order pursuant to section 65 of the HPA shall cease to have effect on the date of the Hearing, if the Hearing Tribunal confirms the Orders orally. For clarity, if the Hearing Tribunal does not confirm their Orders orally, the Interim Order shall cease to have effect on the date the Decision is issued by the Hearing Tribunal.
7. Should Ms. Musni fail to comply with any of the orders above within the deadline specified or within the period of the extended deadline granted by the Complaints Director, the Complaints Director may do any or all of the following:
 - a. Treat Ms. Musni's non-compliance as information for a complaint under s. 56 of the HPA,
 - b. In the case of failure to pay costs by the deadlines indicated, Ms. Musni practice permit will be suspended until she has complied with the outstanding order(s) and the College may take action as permitted by the HPA; or
 - c. Refer the matter back to a hearing tribunal for further direction.

DATED this 15 day of December, 2025.

Signed by the Chair on behalf of the Hearing Tribunal



Wendy Coombs, PT, Chair