

**IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL OF THE COLLEGE OF
PHYSIOTHERAPISTS OF ALBERTA**

**Pursuant to THE *HEALTH PROFESSIONS ACT*, being Chapter H-7 of the Revised Statutes of
Alberta**

Regarding the conduct of Mohit Rajesh Shah, a Regulated Member

DECISION OF THE HEARING TRIBUNAL

A hearing of the Hearing Tribunal of the College of Physiotherapists of Alberta (the “**College**”) was conducted by video conference on August 18, 2026

In attendance were:

Hearing Tribunal:

Wendy Coombs, PT, Chair
Gabriela Abbud, PT
Glen Buick, Public Member
Vince Paniak, Public Member

Also present were:

Simon Cooke, Complaints Director
Vita Wensel, Legal Counsel for the Complaints Director
Julie Gagnon, KC, Independent Legal Counsel for the Hearing Tribunal
Chloe Wall, Summer Student with Ms. Wensel
Raya Slavik, Articling Student with Ms. Gagnon
Haylee O’Reilly, Hearings Administrator
Cheryl Blahut, Conduct Coordinator
Jessica Young, Court Reporter

PRELIMINARY MATTERS

Proceeding in the Absence of the Investigated Person

1. Mohit Rajesh Shah (the “**Investigated Person**” or “**Mr. Shah**”) was not present when the hearing convened.
2. Ms. Wensel brought an application to proceed in the absence of Mr. Shah, pursuant to section 79(6) of the *Health Professions Act*, RSA 2000, c. H-7 (“**HPA**”). The Attestation of Cheryl Blahut (Exhibit 3) and Affidavit of Brandi Gordon (Exhibit 4) were provided in support of this application.

3. Ms. Wensel referenced section 120 of the HPA regarding the definition and requirements of service. The HPA deems service to be satisfied so long as the Notice to Attend Hearing was sent by registered mail to the investigated person's address on the College's register.
4. The Attestation of Cheryl Blahut demonstrates that several attempts were made to serve the Notice to Attend Hearing on Mr. Shah. Various attempts were made via email at an address from which Mr. Shah was previously responsive. Three attempts were made to serve Mr. Shah via registered mail to addresses found in the College's registration records, Mr. Shah's ID and insurance policy, and from the engagement of a skip tracer.
5. The Affidavit of Brandi Gordon describes attempts to serve Mr. Shah by email. Two attempts made in May 2026, where delivery confirmation receipts were received, and two attempts made in June 2026 and August 2026 where the receipts were undeliverable. Court information and endorsements for criminal proceedings against Mr. Shah were also obtained. The charges in the criminal matter are related to the conduct that form the Allegations in this hearing. An unendorsed warrant was issued for Mr. Shah's arrest when he failed to appear for his criminal trial on January 20, 2026. Also on this date, Mr. Shah's counsel of record appeared in court and withdrew as counsel.
6. Ms. Wensel submitted that the record of criminal proceedings reflects a pattern of Mr. Shah failing to appear for matters which these allegations relate to.
7. Mr. Shah's most recent contact with the College was in March 2025. Mr. Shah retained legal counsel, David Girard, on March 9, 2025. Mr. Girard withdrew on April 29, 2026 due to loss of contact with Mr. Shah.
8. The Hearing Tribunal carefully reviewed the Attestation of Cheryl Blahut and Affidavit of Brandi Gordon. The Hearing Tribunal found that the College has been diligent in its attempts to contact Mr. Shah and to serve the Notice to Attend Hearing. Section 120(3) of the HPA provides that notice is sufficient if provided by registered mail at the person's address shown on the register. The College has satisfied this requirement and gone above and beyond to try to effect service on Mr. Shah by sending registered mail to multiple addresses, engaging the assistance of a skip tracer, and pulling criminal court information and endorsements.
9. The Hearing Tribunal was satisfied that the College's attempts at service were thorough and reasonable. There was also no evidence to suggest that an adjournment would result in the College being able to contact Mr. Shah or secure Mr. Shah's attendance at the hearing.
10. For the reasons set out above, the Hearing Tribunal determined it was satisfied to proceed with the hearing in the absence of Mr. Shah.

Other Preliminary Matters

11. Ms. Wensel confirmed that, on behalf of the Complaints Director, there were no objections to the composition or jurisdiction of the Hearing Tribunal.
12. Pursuant to section 78(1) of the HPA, the hearing was open to the public. No application was made to close the hearing.

ALLEGATIONS

13. The allegations set out in the Notice of Hearing (Exhibit 1, Tab 1) are:
 1. On or about December 28, 2024, you failed to obtain adequate informed consent from Patient E.H. before performing physiotherapy treatment on Patient E.H.'s buttocks and/or lower back.
 2. On or about December 28, 2024, you improperly draped Patient E.H.:
 - a. while Patient E.H. was laying prone and prior to performing physiotherapy treatment on her buttocks and/or lower back.
 - b. while Patient E.H. was laying supine and prior to performing physiotherapy interventions.
 3. On or about December 28, 2024, while performing physiotherapy treatment on Patient E.H., you digitally penetrated Patient E.H.'s vagina.

IT IS FURTHER ALLEGED THAT your conduct constitutes “unprofessional conduct” as defined in s. 1(1)(pp)(i), (ii), and (xii) of the HPA, in particular:

1. Your conduct in Allegations 1, 2, and 3 breaches one or more of the following:
 - a. Code of Ethical Conduct for Alberta Physiotherapists: Responsibilities to the Client (A1, A4, A5, A6, A12, and A18); Responsibilities to the Public (B1); and Responsibilities to Self and the Profession (C1); and
 - b. Standards of Practice for Physiotherapists in Alberta (March 2023): Client Assessment, Diagnosis, Interventions; Client-Centered Care; Consent; Evidence-Informed Practice and Professional Boundaries.
2. Your conduct in Allegation 3 constitutes “sexual abuse” as defined in s. 1(1)(nn.1) of the HPA and contravenes the College’s Standard of Practice for Physiotherapists in Alberta (March 2023): Sexual Abuse and Sexual Misconduct.

(collectively, the “**Allegations**”)

EVIDENCE

14. The following exhibits were entered during the course of the hearing:

Exhibit 1 – Notice of Hearing

Exhibit 2 – Letter from Counsel for the Complaints Director to the Hearings Director dated August 13, 2026

Exhibit 3 – Attestation of Cheryl Blahut

Tab A – Registration information of the Investigated Person

Tab B – Notice to Investigate

Tab C – Email correspondence between Conduct Department and the Investigated Person (February 5, 2025 – March 4, 2025)

Tab D – Email correspondence between the College and the Investigated Person (February 13, 2025)

Tab E – Email correspondence between the College and the Investigated Person (March 4, 2025)

Tab F – Notice from Mr. Girard, counsel for the Investigated Person (March 9, 2025)

Tab G – Hearing procedures

Tab H – Confirmation of Ms. Girard's withdrawal as counsel for the Investigated Person (April 29, 2026)

Tab I – Mr. Girard withdrawal letter

Tab J – Email correspondence between Ms. Wensel, the College, and the Investigated Person (May 18, 2026)

Tab K – Undeliverable notification from Investigated Person's email (May 18, 2026)

Tab L – Notice of Hearing and Appointments

Tab M – Return of registered mail as "No such address" (June 24, 2026)

Tab N – Canada Post tracking "Item unclaimed by recipient. Item being returned to sender" (July 28, 2026)

Tab O – College engages Skip Tracer, Consolidated Recovery Systems (July 15, 2026)

Tab P – Statutory Declaration of Amber Derochie

Tab Q – Canada Post tracking "Recipient not located at address provided. Item being returned to sender" (July 22, 2026)

Exhibit 4 – Affidavit of Brandi Gordon

Exhibit A – Information and Endorsements regarding criminal matter

Exhibit B – Updated Criminal Court Information and Endorsements

Exhibit C – Email to the Investigated Person dated May 7, 2026

Exhibit D – Delivery Receipt for email dated May 7, 2026

Exhibit E – Email to the Investigated Person dated May 13, 2026 and Delivery Receipt

Exhibit F – Email to the Investigated Person dated June 17, 2026 and Undelivered Email Notification

Exhibit G – Email to the Investigated Person dated August 5, 2026 and Undelivered Email Notification

Exhibit 5 – Email to Patient E.H. with Notice to Attend as Witness

Exhibit 6 – Notice to Attend as Witness

Exhibit 7 – Email Correspondence with Patient E.H.

15. A book of case law was also provided by the Complaints Director, with the following:

Tab 1 - *Health Professions Act*, R.S.A. 2000, c. H-7

Tab 2 - *College of Physicians and Surgeons of Alberta re: Seredycz* (January 2, 2024)

Tab 3 - *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v Prousky*, 2024 ONCRPO 2

Tab 4 - *Ontario (College of Physicians and Surgeons of Ontario) v WXY*, 2015 ONCPSD 13

SUBMISSIONS

16. Ms. Wensel described that the circumstances of this hearing are unique. Despite Mr. Shah becoming unresponsive in May 2025 and the subsequent withdrawal of his counsel in April 29, 2026, the Complaints Director instructed that the hearing proceed.
17. In communicating with Patient E.H. to prepare for the hearing, Patient E.H. also became unresponsive. Ms. Wensel scheduled a meeting with Patient E.H. in July 2026 which Patient E.H. did not attend. Ms. Wensel called Patient E.H., left voicemails, and sent emails. On August 10, 2026, Patient E.H. advised that she was unable to respond or participate in the hearing due to health issues (Exhibit 7). Patient E.H. did not respond when asked if an adjournment would allow her to participate.
18. Two other witnesses were scheduled to speak to health records in the absence of Mr. Shah. They were not witnesses who could give first hand evidence regarding the Allegations. The Complaints Director instructed Ms. Wensel to cancel these witnesses and withdraw the Allegations and Notice of Hearing.
19. Ms. Wensel advised that there were two options available to the Hearing Tribunal at this juncture. One was to accept the Complaints Director's withdrawal of the Allegations and Notice of Hearing, the other was to dismiss the same on the basis that no evidence was being called.

Option 1: Withdrawing the Allegations

20. Ms. Wensel described that the Complaints Director seeks a withdrawal of the entire Notice of Hearing, which is different from what the Hearing Tribunal may encounter on other occasions where some allegations are withdrawn while others remain.
21. Ms. Wensel submitted that the Complaints Director has discretion to withdraw allegations despite this not being set out in the HPA. This discretion lies in determining what is in the public interest and is akin to prosecutorial discretion in the criminal context.
22. Ms. Wensel submitted that it is not in the public interest to force Patient E.H. to testify despite there being legal authority to compel this. Without the testimony of Patient E.H., there is insufficient evidence to proceed.
23. Ms. Wensel described that a withdrawal is preferable to a dismissal due to the records that would follow from a hearing; namely a decision of the Hearing Tribunal. In a situation where the investigated person has failed to attend, it is important to have records that reflect the proceedings. It would not be in the public interest to establish a precedent that failing to attend a hearing will result in dismissal of the allegations.
24. Ms. Wensel noted that section 66(4) of the HPA is not directly applicable to these submissions. The Complaints Director is not suggesting a withdrawal because there is no new evidence. Rather, there is implied authority for the Complaints Director to seek a withdrawal given the Hearing Tribunal's discretion and because it is in the public interest to do so.
25. Ms. Wensel referenced *College of Physicians and Surgeons of Alberta re: Seredycz*, 2024 CanLii 84896 (AB CPSDC) in which a complaint was referred to hearing by the Complaint Review Committee, and ultimately withdrawn in light of new information. The Hearing Tribunal did not rely on section 66(4) of the HPA but accepted the Complaints Director's application to withdraw based on an implied and necessary authority to do so in unique circumstances. Ms. Wensel submitted that, despite the facts being different, this case suggests there is the ability for the Complaints Director to seek a withdrawal of allegations and for the Hearing Tribunal to accept such application.
26. Ms. Wensel also referenced *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Prousky*, 2024 ONCRPO 2, where a withdrawal was sought outside of the hearing process, in exchange for the member's permanent resignation. While this case results from a different jurisdiction and statutory regime, Ms. Wensel submitted that it supports that there is discretion in the professional regulatory realm to accept a withdrawal.
27. Ms. Wensel noted that in the unique circumstances of an investigated person whose registration has been cancelled, who refuses to attend a hearing and a complainant who does not wish to participate, a withdrawal is in the public interest. It provides a record of

the investigated person's actions and the proceedings while respecting the complainant's wish to not testify.

Option 2: Dismissing the Allegations

28. Ms. Wensel submitted that if the Hearing Tribunal rejects the Complaints Director's request to withdraw the Allegations, the Complaints Director will not call any evidence and will invite the Hearing Tribunal to dismiss the Allegations. The Complaints Director bears the onus of proving the Allegations on a balance of probabilities. If no evidence is presented, the matter must be dismissed.
29. Given the nature of the Allegations, Patient E.H. is the primary source of evidence. Ms. Wensel submitted that the Allegations cannot be proven without her testimony.
30. Ms. Wensel referenced *Ontario (College of Physicians and Surgeons of Ontario) v WXY*, 2015 ONCPSD 13, which had allegations of a similar nature and a non-responsive complainant. No evidence could be called in the absence of the complainant, and the allegations were dismissed rather than withdrawn. The member in that case was present at the hearing. Ms. Wensel distinguished this case on the basis that Mr. Shah chose not to participate in the hearing despite having the opportunity to do so. Ms. Wensel submitted that this case supports the Hearing Tribunal's discretion to dismiss the Allegations but maintained that the Complaints Director's preference and position is that a withdrawal is appropriate in these circumstances.

Conclusion on Options

31. Ms. Wensel emphasized that the Complaints Director would prefer a withdrawal of the Allegations in the circumstances of this case. She discussed that it would be possible for Mr. Shah to re-register in Alberta with the College, as his membership was administratively cancelled for non-renewal rather than arising from a disciplinary process. However, the Hearing Tribunal's decision from this hearing would provide a record of what has occurred, which is important for any potential reinstatement process.
32. Ms. Wensel submitted that the Hearing Tribunal does have discretion to direct a withdrawal of the Allegations despite the lack of explicit direction under the HPA. A withdrawal in these circumstances will preserve the integrity of the professional disciplinary process, respect the wishes of the complainant, and ultimately serve the public interest.

Hearing Tribunal Questions

33. The Hearing Tribunal asked Ms. Wensel what would occur if Mr. Shah sought to register in another jurisdiction. Ms. Wensel noted that generally, there would be a process where the regulator in the other jurisdiction would request a history of discipline from the college in the initial jurisdiction. Ms. Wensel noted that the expectation was that with a

withdrawal of Allegations under Option 1 and a decision of the Hearing Tribunal, there would be discretion for the College to disclose the matter to the other jurisdiction.

34. The Hearing Tribunal asked if this decision would be published on the College's website. Ms. Wensel noted that she expected it would be published in some form but noted that this would be a decision for the Registrar, having regard to the HPA and Bylaws of the College.

DECISION OF THE HEARING TRIBUNAL

35. The Hearing Tribunal reviewed the Exhibits and considered the submissions on behalf of the Complaints Director. The Hearing Tribunal found that a withdrawal of the Allegations is appropriate in this case.
36. The Investigated Person has failed to attend the hearing. Generally, a hearing can proceed under section 79(6) of the HPA and findings of unprofessional conduct can be made, if there is evidence to support a finding that the allegations are proven on a balance of probabilities. The failure by an investigated person to attend a hearing does not mean the hearing will not proceed.
37. In the present case, the complainant has chosen not to participate in the hearing. The Allegations are of a serious nature. They are not being dismissed on the basis that the evidence presented was insufficient. Rather, the hearing cannot proceed without the participation of the complainant.
38. The Hearing Tribunal agreed with the submissions of Ms. Wensel that withdrawing the Allegations results in a more accurate representation of the situation as opposed to dismissing the Allegations. A withdrawal produces a reliable record of the Allegations and proceedings, whereas a dismissal would, in effect, produce a finding of not guilty. Given this, the application by the Complaints Director for a withdrawal of the Allegations is appropriate.
39. The Hearing Tribunal further considered that accepting the Complaints Director's application to withdraw the Allegations was in the public interest in this case.
40. The public is further protected given that Mr. Shah is not currently registered with the College. Should Mr. Shah seek to re-register in Alberta or another jurisdiction, it is the expectation of the Hearing Tribunal that this decision can provide a record of the matter to inform the decision of the Registrar of this College or of a college in another jurisdiction.
41. In addition, while publication of Hearing Tribunal decisions is in the discretion of the Registrar and subject to the HPA and the College's Bylaws, the Hearing Tribunal wished to emphasize that, without making any direction on publication, the Hearing Tribunal believes publication would support the public interest.

ORDER OF THE HEARING TRIBUNAL

42. For the reasons noted above, the Hearing Tribunal grants the application by the Complaints Director to withdraw the Allegations in the Notice of Hearing.

DATED this 24 day of August, 2026.

Signed by the Chair on behalf of the Hearing Tribunal

A handwritten signature in black ink, appearing to read "W. Coombs", is written above a horizontal line.

Wendy Coombs, PT, Chair