

ALBERTA COLLEGE OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS

IN THE MATTER OF
THE *HEALTH PROFESSIONS ACT*

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

CRAIG ROBINSON

**DECISION OF THE HEARING
TRIBUNAL**

INTRODUCTION

1. On October 29, 2024, the Hearing Tribunal held a hearing into the conduct of Craig Robinson via video conferencing. The hearing was held under Part 4 of the *Health Professions Act* (the "HPA").
2. The members of the Hearing Tribunal who attended the hearing were Terry Engen, Chair and public member; Sarah Gingrich, public member; Debra Martin, Registered Speech-Language Pathologist; and Liane Nickel, Registered Speech-Language Pathologist. Ashley Reid and Amin Ben Khaled acted as independent legal counsel to the Hearing Tribunal.
3. Melanie Sicotte, the Interim Complaints Director, attended the hearing and was represented by her legal counsel, Vita Wensel. Craig Robinson, the regulated member, was also present.

PRELIMINARY ISSUES

4. There were no objections to the composition or jurisdiction of the Hearing Tribunal, and no procedural issues were raised. The hearing was a public hearing. There was no application to hold the hearing, or any part of the hearing, in private.
5. Ms. Wensel advised the Hearing Tribunal that the hearing would proceed by way of an Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct and, if the Hearing Tribunal accepted, by way of a Joint Submission on Penalty. Mr. Robinson and the Hearing Tribunal agreed with this proposal, and the hearing proceeded by consent.
6. The Hearing Tribunal confirmed and recognized that Mr. Robinson would be proceeding without legal counsel in a self-represented capacity.

ALLEGATIONS

7. An Amended Notice to Attend a Hearing, dated October 10, 2024, was marked as Exhibit 1.¹ The allegations in the Amended Notice to Attend a Hearing were as follows:
 - 1) Between January 2019 and May 2019, with respect to Patient 1, failed to maintain appropriate and required documentation, including one or more of the following:
 - a. Little to no evidence of documentation of:
 - i. Family concerns/priorities
 - ii. Assessment findings/observations
 - iii. Plan
 - iv. Goal setting
 - v. Intervention options
 - vi. Progress
 - b. Chart notes were missing or not completed for known client visits.

¹ Ms. Wensel made an application to amend dates in Allegation 3 in the Notice to Attend a Hearing. Mr. Robinson did not object to the amendments. The Hearing Tribunal granted the application.

- 2) Between January 2022 and September 2022, with respect to Patient 2, failed to maintain appropriate and required documentation, including one or more of the following:
 - a. Little to no evidence of documentation of:
 - i. Informed consent
 - ii. Family concerns/priorities
 - iii. Assessment findings/observations
 - iv. Plan
 - v. Goal setting
 - vi. Intervention options
 - vii. Progress
 - b. Chart notes were missing or not completed for known client visits.
- 3) Between June 2023 and August 2023, with respect to Patient 3, failed to maintain appropriate and required documentation, including one or more of the following:
 - a. Little to no evidence of documentation of:
 - i. Informed consent
 - ii. Family concerns/priorities
 - iii. Assessment findings/observations
 - iv. Plan
 - v. Goal setting
 - vi. Intervention options
 - vii. Progress
 - b. Charts contained informal notes or transcriptions that did not contain your professional designation, sufficient information nor adequate information to write a formal chart note at a later date.
- 4) Between December 2021 and August 2022, with respect to Patient 4, failed to maintain appropriate and required documentation, including one or more of the following:
 - a. Little to no evidence of documentation of:
 - i. Patient identifiers on papers within chart
 - ii. Family concerns/priorities
 - iii. Assessment findings/observations
 - iv. Plan
 - v. Goal setting
 - vi. Intervention options
 - vii. Progress

- b. Charts contained informal notes or transcriptions that did not contain your professional designation, sufficient information nor adequate information to write a formal chart note at a later date.

IT IS FURTHER ALLEGED that your conduct:

- 2) Breached your statutory and regulatory obligations to the Alberta College of Speech-Language Pathologists and Audiologists ("ACSLPA") as a speech-language pathologist.
- 3) Failed to fulfill professional and ethical obligations expected and required of a speech-language pathologist.

IT IS FURTHER ALLEGED that your conduct outlined in this notice breached the following laws and standards of practice that applied to the profession:

- 1) The HPA,
- 2) "ACSLPA Standard of Practice 4.3: Documentation and Information Management", Effective September 2015;
- 3) "ACSLPA Standard of Practice 4.3: Documentation and Information Management", Effective June 2021;
- 4) "ACSLPA Standard of Practice 4.3: Documentation and Information Management", Effective September 2015 and June 2021 (Revised June 2022);
- 5) "ACSLPA Standard of Practice 3.2: Informed Consent", Effective September 2015;
- 6) "ACSLPA Standard of Practice 2.3: Informed Consent", Effective September 2015 (Revised June 2022);
- 7) ACSLPA guideline on Clinical Documentation and Record Keeping, Effective 2011 (Revised September 2018);
- 8) ACSLPA guideline on Clinical Documentation and Record Keeping, Effective 2011 (Revised June 2020); and
- 9) ACSLPA guideline on Clinical Documentation and Record Keeping, Effective 2011 (Revised June 2021).

and that your conduct set out in this notice and the breach of some or all of these laws and standards of practice constitutes unprofessional conduct pursuant to subsections 1(1)(pp)(i) and 1(1)(pp)(ii) of the HPA.

(referred to altogether as the "Allegations")

EVIDENCE AND DOCUMENTS BEFORE THE HEARING TRIBUNAL

8. The documents and evidence that were before the Hearing Tribunal were submitted by agreement of both parties and were as follows:

Exhibit 1: Amended Notice to Attend a Hearing, dated October 10, 2024 (the "Notice of Hearing")

Exhibit 2: Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct

Exhibit 3: Attachments to the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct (14 tabs of documents)

Exhibit 4: Joint Submission on Penalty

FACTS

9. The facts in this case are undisputed and set out in detail in the Agreed Statement of Facts (Exhibit 2). The key facts are summarized in the paragraphs that follow.

The Complaint

10. Mr. Robinson became a regulated member of the ACSLPA in July 2002 when the ACSLPA was created. Mr. Robinson began practicing as a Speech Language Pathologist ("SLP") in 1997 with ACSLPA's predecessor, the Speech and Hearing Association of Alberta.

11. On September 18, 2023, the Complaints Director received a complaint alleging concerns with Mr. Robinson's documentation practices (the "Complaint"). The Complaints Director directed that the Complaint be investigated, and following receipt of the investigation report, the Complaints Director determined that the Complaint should be referred for a hearing.

12. On May 31, 2024, Mr. Robinson received notice in writing that the Complaint was referred to a hearing. A Notice to Attend a Hearing was served upon Mr. Robinson through email on July 23, 2024.

Background

13. At all relevant times, Mr. Robinson was employed as an SLP with AHS in Ponoka, Alberta. Mr. Robinson's role is highly independent with his management team providing him oversight and support virtually. Mr. Robinson's role is focused on providing SLP services to children. Files for SLP services are referred to him by a social worker, processed by an administrative assistant, and then provided to Mr. Robinson for an intake appointment and SLP care. Mr. Robinson is responsible for scheduling appointments after the intake appointment.

14. Mr. Robinson's management team had concerns with his documentation practices and time management. Mr. Robinson's management team experienced a period of good documentation followed by poor documentation, despite implementing support strategies. Based on these concerns, a member of Mr. Robinson's management team attended Ponoka and conducted a chart review on approximately 10 to 20 of Mr. Robinson's patient charts. She found

that there was missing or incomplete documentation, a pattern of a lack of information documented, and charts that needed discharge documentation.

15. Following the chart review, Mr. Robinson's management team implemented a support plan and strategies to improve his documentation practices, including further use of electronic charting and calendar resources to offer more accountability. They also provided Mr. Robinson with a laptop to allow timely documentation.

16. Following the implementation of the support plan, the management team saw improvement in Mr. Robinson's documentation practices.

17. Within his role, Mr. Robinson was expected to complete his documentation on the same day as his appointments with his clients, or if an appointment was late in the day, the next day. All clients should have informed consent documented from their initial appointment in their chart, as consent is obtained verbally.

18. At the time of the Allegations, Mr. Robinson's standard practice was to make transitory or informal notes on a sticky note, paper, or chart and later transform his notes into a formal chart note. Mr. Robinson often forgot to do so or became overwhelmed with completing his documentation, which resulted in transitory notes becoming the main source of documentation in the charts.

Patient 1

19. Patient 1's chart was provided in Exhibit 3. Patient 1 was around eight years old at the time of Allegation 1 and referred to Mr. Robinson for SLP services after standard intake was completed in November 2018.

20. On January 9, 2019, Mr. Robinson made contact with Patient 1's parent to arrange an assessment at Patient 1's school and noting the parent's informed consent. No documentation is noted about the parent's concerns or priorities relating to Patient 1's SLP services or assessment.

21. Mr. Robinson completed the SPAT-D 3 assessment form from January 23, 2019, which is included in Patient 1's chart. No further documentation about assessment findings or observations for Patient 1 is included in the chart.

22. Following Patient 1's assessment on January 23, 2019, Mr. Robinson continued to provide SLP care to Patient 1 between February 2019 and May 2019. The records related to this care were also included in Exhibit 3.

23. Mr. Robinson did not complete any documentation regarding Patient 1's SLP care plan, goal setting, intervention options, or progress. Despite having eight recorded client visits with Patient 1, Mr. Robinson's charting is missing or incomplete following January 9, 2019 for known client visits.

Patient 2

24. Patient 2's chart was included in Exhibit 3. Patient 2 was around three years old at the time of the Allegations and was referred to Mr. Robinson for SLP services after standard intake was completed in January 2022.

25. There is no evidence of documentation by Mr. Robinson on Patient 2's chart until May 2022, when he completed an after-visit summary. Mr. Robinson completed a REEL-3 assessment booklet, which is included in Patient 2's chart, but the test form does not include Mr. Robinson's name or professional designation.

26. Prior to the assessment, which appears to be completed in April 2022, there is no documented informed consent from Patient 2's parent or guardian.

27. No further documentation about assessment findings or observations is included in the chart before or after the May 2022 after-visit summary, despite visits being conducted by Mr. Robinson between January 2022 and September 2022. No further family concerns or priorities are documented in Patient 2's chart or on an after-visit summary.

28. Mr. Robinson did not complete any documentation regarding Patient 2's care plan, goal setting, intervention options, or progress despite having six recorded client visits with Patient 2. Mr. Robinson's charting is missing or incomplete between January 2022 and September 2022.

Patient 3

29. Patient 3's chart was included in Exhibit 3. Patient 3 was around eight years old at the time of Allegation 3 and was referred to Mr. Robinson for SLP services after standard intake was completed in June 2023.

30. There is minimal evidence of Mr. Robinson's documentation on Patient 3's chart in August 2023. Mr. Robinson's documentation for Patient 3 is described as informal notes or transcriptions. The entries by Mr. Robinson in August 2023 do not include his professional designation or signature and are informal dated entries with no context and minimal evidence or detail about assessment findings or observations. The entries from August 2023 lacked adequate detail or context to be readable.

31. Overall, the entries until September 2023 are largely unreadable, disorganized, and insufficient to be formal chart notes. They are insufficient to write a formal chart note at a later date. There is no evidence of informed consent obtained from Patient 3's parent or guardian between the referral and appointments beginning in August 2023. Similarly, there is no evidence of family concerns or priorities, any formal assessment findings or observations, a care plan, goal setting, intervention options or progress that is readable or contextualized.

32. Mr. Robinson documented a program update and a plan for Patient 3 on separate documentation in August 2023. However, the documentation was still not contextualized by any assessment findings or observations, family priorities or concerns, intervention options, or adequate progress from Patient 3's treatment sessions within their chart.

33. At the end of September 2023, Mr. Robinson began to create multidisciplinary note entries to the chart that reflect a "SOAP" (subjective, objective, assessment, plan) manner of documenting, which is an accepted and encouraged practice at his workplace.

Patient 4

34. Patient 4's chart was included in Exhibit 3. The chart does not include the standard intake date or any patient identifiers other than Patient 4's first name.

35. Mr. Robinson's documentation for Patient 4 are informal notes or transcriptions and includes transitory sticky notes, informal dated entries with no context and minimal detail, and limited detail about any assessment findings or observations on family concerns or priorities. They are insufficient to write a formal chart note at a later date. Further, the entries also do not include Mr. Robinson's professional designation or signature.

36. Overall, the entries within the chart are largely unreadable and disorganized and are not sufficient to constitute formal chart notes.

37. Mr. Robinson's charting does not include a care plan, goal setting, intervention options, or progress notes for Patient 4 that are readable or contextualized.

SUBMISSIONS REGARDING CONDUCT

Submissions on behalf of the Complaints Director

38. Ms. Wensel began by speaking about the Hearing Tribunal's task. First, the Hearing Tribunal determines whether the alleged conduct is factually proven. Second, the Hearing Tribunal determines whether proven conduct meets the threshold of unprofessional conduct.

39. Ms. Wensel reviewed the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct and the associated attachments in Exhibit 3. In particular, Ms. Wensel provided the Hearing Tribunal with the chart review and charts of Patients 1, 2, 3, and 4. She noted Mr. Robinson's insufficient documentation practices shown in the charts.

40. Ms. Wensel submitted that, based on the evidence in Exhibits 2 and 3, the conduct alleged in the Notice to Attend a Hearing was factually proven.

41. Ms. Wensel referred the Hearing Tribunal to Exhibit 2, in which Mr. Robinson acknowledged that his conduct was unprofessional conduct. Mr. Robinson acknowledged that his conduct breached his statutory and regulatory obligations as an SLP and failed to fulfill his professional and ethical obligations. Specifically, he admitted that his conduct was unprofessional conduct within the meaning of section 1(1)(pp)(i) and (ii) of the HPA:

(pp) "unprofessional conduct" means one or more of the following, whether or not it is disgraceful or dishonorable:

(i) displaying a lack of knowledge of or lack of skill or judgement in the provision of professional services;

(ii) contravention of this Act, a code of ethics or standards of practice;

42. Ms. Wensel submitted that documentation is an important practice for an SLP. Documentation creates a record for informed consent, allows other healthcare professionals to understand what care has been provided to the patient, and details the patient's care plan for

others to review. Documentation is also a fundamental practice to the day-to-day work of an SLP, as written in ACSPLA's Standards of Practice.

43. Ms. Wensel referred to ACSPLA's Standards of Practice for "Documentation and Information Management" and "Informed Consent." She noted the different versions of these documents that applied at the time of Mr. Robinson's conduct alleged in the Notice to Attend a Hearing. Mr. Robinson acknowledged that his conduct contravened the Standards of Practice.

44. Ms. Wensel submitted that in light of the evidence and the acknowledgment before it, the Hearing Tribunal should find Mr. Robinson's conduct amounts to unprofessional conduct.

Submissions of Mr. Robinson on Conduct

45. Mr. Robinson indicated he had no submissions to add to the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct.

DECISION ON CONDUCT

46. After hearing from both parties and upon reviewing the evidence before it, the Hearing Tribunal finds that the Allegations in the Notice to Attend a Hearing are proven.

47. The Hearing Tribunal accepts Mr. Robinson's acknowledgement of unprofessional conduct and agrees that the proven conduct constitutes unprofessional conduct under sections 1(1)(pp)(i) and 1(1)(pp)(ii) of the HPA.

REASONS AND FINDINGS ON UNPROFESSIONAL CONDUCT

48. In this case, the facts are not in dispute. There is an Agreed Statement of Facts that described the facts relating to each of the Allegations in significant detail. The Hearing Tribunal accepts the Agreed Statement of Facts is an accurate summary of what occurred.

49. The Hearing Tribunal finds that Allegations have been proven on a balance of probabilities based on the Agreed Statement of Facts, Mr. Robinson's admission to the conduct in the Allegations, and the patient records for each of Patients 1, 2, 3, and 4.

50. Having found the Allegations factually proven, the Hearing Tribunal considered whether Mr. Robinson's proven conduct constitutes unprofessional conduct as defined by the HPA:

- (i) displaying a lack of knowledge of or lack of skill or judgement in the provision of professional services, and
- (ii) contravention of the HPA or ACSPLA's code of ethics or standards of practice.

51. The Hearing Tribunal accepts that Mr. Robinson's conduct displayed a lack of knowledge, skill, or judgement. It is a basic obligation of SLPs to complete and maintain comprehensive documentation when providing their professional services. Proper documentation is necessary to provide adequate patient care so that anyone reviewing a patient record can determine what care was provided, to whom it was provided, by whom and when the care was provided, why the care was provided, and any evaluation of the care that was provided. The Hearing Tribunal finds that Mr. Robinson's documentation in respect of

Patients 1, 2, 3, and 4 failed to satisfy this obligation and demonstrates a lack of knowledge, skill or judgment in the course of his provision of professional services.

52. The Hearing Tribunal also accepts that Mr. Robinson's conduct contravened the ACSLPA Standards of Practice in place at the time of his conduct. Standards 3.2 (September 2015 version) and 2.3 (June 2022 version) require a member of ACSLPA to obtain informed consent prior to the provision of professional services. When an SLP obtains consent verbally, they must make a notation to that effect in the file. Mr. Robinson did not do so.

53. Further, Mr. Robinson contravened Standard 4.3 (September 2015, June 2021, and June 2022 versions). The Standard requires an SLP to maintain clear, confidential, accurate, legible, timely and complete records. Mr. Robinson failed to keep clear, accurate, legible, timely, or complete records of his care for Patients 1, 2, 3 and 4.

54. For all of these reasons, the Hearing Tribunal finds that Mr. Robinson's conduct is unprofessional conduct as defined under subsections 1(1)(pp)(i) and 1(1)(pp)(ii) of the HPA.

SUBMISSIONS REGARDING PENALTIES

The Joint Submission on Penalty

55. The parties submitted a Joint Submission on Penalty to the Hearing Tribunal for consideration. The specific orders proposed by the parties are reproduced at paragraph 73 of this written decision. Generally, the parties proposed the following orders:

- 1) Mr. Robinson would receive a reprimand, and the Hearing Tribunal's decision would serve as the reprimand;
- 2) Mr. Robinson would be required to complete two remedial education courses:
 - a. Education on documentation: Ethical Documentation and Billing for SLPs (Speechpathology.com)
<https://www.speechpathology.com/slp-ceus/course/ethical-documentation-and-billing-for-10747>),
 - b. Education on time/stress management: Stress Management (NAIT)
<https://www.nait.ca/nait/continuing-education/courses/citc802-stress-management>);
- 3) Mr. Robinson would be required to submit a written reflective essay, which would include elements related to documentation specified by the parties;
- 4) Mr. Robinson would be required to complete 120 days of monitoring on terms and conditions specified by the parties; and
- 5) Mr. Robinson would pay 25% of the total costs of the investigation and hearing to a maximum of \$3,000.

Submissions on behalf of the Complaints Director on Penalty

56. Ms. Wensel advised the Hearing Tribunal of its authority to make penalty orders under section 82 of the HPA. She explained that the primary purpose of sanctioning in the professional regulatory context is to ensure that the public is protected from unprofessional conduct. This goal is achieved by ensuring that the public is not at risk of harm from continuing conduct by the regulated member, by ensuring that the public has confidence in the profession, and by ensuring that ACSLPA deters all members of the profession by sending an appropriate message regarding unacceptable conduct.

57. Ms. Wensel went on to explain the law regarding joint submissions on penalty. She explained that there is a high threshold for rejecting a joint submission. The Hearing Tribunal should only depart from the joint submission proposed by the parties if the proposed penalties would bring the administration of justice into disrepute or would be contrary to the public interest. Ms. Wensel referred to the case of *Timothy Edward Bradley v Ontario College of Teachers* in support of her summary of the test for rejecting a joint submission. She advised that *Timothy Edward Bradley* is widely applied in professional discipline proceedings.

58. Ms. Wensel went on to describe each penalty proposed in the Joint Submission on Penalty. She advised that the Hearing Tribunal could assess the penalties in light of relevant sanctioning factors described in the case of *Jaswal v Newfoundland Medical Board* ("*Jaswal*"). Ms. Wensel made submissions on each of the factors:

- 1) *Nature and gravity of the proven allegations*: Mr. Robinson's conduct was serious unprofessional conduct with a deeply concerning pattern of insufficient documentation. Ms. Wensel referred the Hearing Tribunal to paragraph 5 of the decision in *College of Audiologists and Speech-Language Pathologists of Ontario v. Lochrie* commenting on the importance of documentation:

*"[5] Comprehensive record keeping is a core aspect of the practice of speech-language pathology. Adequate records ensure that all those involved in the client's care at the time the services are provided or in the future are aware of the services and can make their own plan of care considering that information. They also support claims to insurers, invoices to clients and an analysis of what occurred should there be a complaint to the College or litigation. They lead to better care in many ways. The public must have confidence that all registrants of this College will maintain accurate and complete records."*²

- 2) *Age and experience of the member*: Mr. Robinson is an experienced member of the profession, having been an SLP since 1997.
- 3) *Previous character of the member*: There is no evidence of findings of unprofessional conduct against Mr. Robinson.
- 4) *Age and mental condition of the offended patient*: The patients involved were children, and there is an inherent vulnerability involved with child patients.

² *College of Audiologists and Speech-Language Pathologists of Ontario v Lochrie*, 2023 ONCASPD 4.

- 5) *Number of times the offence was proven to have occurred:* The conduct represents a pattern of concerns regarding Mr. Robinson's documentation practices between 2019 and 2023.
- 6) *The role of the member in acknowledging what occurred:* Mr. Robinson acknowledged and agreed to his conduct. He has been cooperative by proceeding with a consent hearing and has shown remorse for his conduct. This is a mitigating factor for the Hearing Tribunal to consider. It is important to note that Mr. Robinson became overwhelmed at times, and though it did not excuse his conduct, it formed part of the overarching context.
- 7) *Impact on the offended patient:* Mr. Robinson's conduct did not involve direct harm to the patients; however, Ms. Wensel submitted that documentation practices impact care to the patients in that documentation leads to better care.
- 8) *The presence or absence of mitigating circumstances:* Mr. Robinson had become overwhelmed during the period in which his unprofessional conduct occurred, and while this does not excuse his conduct, it should be considered a mitigating circumstance in the context of the joint submission presented by the parties.
- 9) *The need to promote specific and general deterrence:* The proposed penalty will serve an important role in specific and general deterrence by ensuring Mr. Robinson will not continue his pattern of conduct in the future and deter other SLPs from this type of conduct. Ms. Wensel again referred the Hearing Tribunal to paragraph 10 of the decision in *College of Audiologists and Speech-Language Pathologists of Ontario v. Lochrie*, to support that the orders proposed in the joint submission will promote specific and general deterrence:

"[10] The suspension and our reprimand emphasize to Ms. Lochrie and the other registrants of the College the seriousness of failures in record-keeping. While these events took place long ago when the registrant was in the early years of her practice, the mentoring and course requirements will ensure that she fully addresses these problems going forward. The joint submission is appropriate and would not bring the administration of the professional discipline system into disrepute."³

- 10) *The need to maintain the public's confidence in the integrity of the profession:* The proposed penalty will provide the public confidence that Mr. Robinson's pattern of improper documentation is broken and that the public will continue to be protected with adequate documentation.
- 11) *The range in similar cases:* The decision in *College of Audiologists and Speech-Language Pathologists of Ontario v. Lochrie* was raised for its similarities with respect to record-keeping and its importance. However, Ms. Wensel clarified that the Complaints Director was not suggesting a suspension was warranted in Mr. Robinson's case and distinguished the seriousness of the conduct in *Lochrie*.

³ *College of Audiologists and Speech-Language Pathologists of Ontario v Lochrie*, 2023 ONCASPD 4 at paragraph 10.

59. Ms. Wensel made brief submissions on the parties' proposal that Mr. Robinson be responsible for 25% of the costs to a maximum of \$3,000. She advised that the total costs of the hearing to date were approximately \$9,700. Ms. Wensel referred to the Court of Appeal's decision in *Jinnah v Alberta Dental Association and College* ("Jinnah") and explained that it provided a legal framework to assist the Hearing Tribunal. The Complaints Director's view was that the amount of 25% of the total costs of the hearing to a maximum of \$3,000.00 was appropriate and did not stray outside the reasoning in *Jinnah*.

Submissions of Mr. Robinson on Penalty

60. Mr. Robinson indicated that he had no submissions on the Joint Submission on Penalty. He confirmed the timelines by which the orders would need to be completed, if the Hearing Tribunal accepted the Joint Submission on Penalty.

Questions from the Hearing Tribunal

61. The Hearing Tribunal asked whether it had the authority to order publication of conditions on ACSLPA's online public register, in relation to paragraph 7 of the Joint Submission on Penalty.

62. Ms. Wensel advised that paragraphs 6 – 8 of the Joint Submission on Penalty describe terms and conditions that apply to the orders sought under section 82. She clarified that the authority to publish conditions lies with the Registrar pursuant to section 119 of the HPA. However, the parties included the condition on publication in the Joint Submission on Penalty to ensure Mr. Robinson was aware of the publication.

63. The Complaints Director's view was that the Hearing Tribunal would not be overstepping their authority to endorse the terms and conditions included in the Joint Submission.

DECISION ON PENALTY

64. The Hearing Tribunal adjourned to consider the Joint Submission on Penalty. The Hearing Tribunal carefully considered the submissions of the parties and determined that it would accept the Joint Submission on Penalty presented by the parties.

REASONS AND FINDINGS ON PENALTY

65. The Hearing Tribunal finds that the proposed orders in the Joint Submission on Penalty are reasonable in light of the unprofessional conduct found in the circumstances.

66. The Hearing Tribunal recognizes the high degree of deference it owes concerning the Joint Submission on Penalty. The Hearing Tribunal finds that the proposed orders are not so uninged that it would cause a reasonable member of the public to lose confidence in the ACSLPA's discipline process.

67. In determining the appropriate penalties, the Hearing Tribunal considered the *Jaswal* factors. Documentation is important for continuity of care. Mr. Robinson's unprofessional conduct extended over a period of time. However, the lack of documentation in this case has not appeared to compromise care or access to care in a manner that caused direct harm to the

patients. The Hearing Tribunal took note of the submissions concerning Mr. Robinson being overwhelmed during the periods in which the unprofessional conduct occurred and considered this in its assessment of the Joint Submission on Penalty. The Hearing Tribunal recognized Mr. Robinson's cooperation throughout the hearing process and his acceptance of responsibility.

68. The Hearing Tribunal finds that the Joint Submission strikes an appropriate balance between sanctioning unacceptable conduct and remediating Mr. Robinson's conduct through educational courses. The Hearing Tribunal trusts that Mr. Robinson will learn about his professional obligations by completing the courses.

69. The Hearing Tribunal considered the parties' proposal that Mr. Robinson complete an essay. The Hearing Tribunal understands that the essay is intended to require Mr. Robinson reflect on his behaviour; however, the Hearing Tribunal had questions about whether such an order would functionally promote the public protection and public interest purposes of penalties. The evidence at the hearing was that Mr. Robinson was overwhelmed at times, which affected his ability to document patient care. The Hearing Tribunal had questions about adding further documentation obligations on top of Mr. Robinson's obligations to document patient care. However, the Hearing Tribunal acknowledged that this order did not rise to the level of bringing the administration of justice into disrepute or being contrary to the public interest such that the Joint Submission on Penalty should be rejected.

70. The Hearing Tribunal also considered the appropriateness of the proposed cost order and the law in *Jinnah*, which suggests when costs are warranted. The Hearing Tribunal was advised that the parties agreed Mr. Robinson should pay 25% of the total cost to a maximum of \$3,000 and has agreed to payment within 12 months of receiving the decision. There is no evidence suggesting Mr. Robinson incurred any other financial penalties arising from this matter. The Hearing Tribunal finds that the assignment of costs is appropriate and reasonable in the circumstances.

71. The Hearing Tribunal finds that the proposed orders will contribute to protecting the public and ensuring the public's ongoing confidence in the integrity of the profession, including the period of monitoring over Mr. Robinson's documentation practices. On this basis, the Hearing Tribunal accepts the Joint Submission on Penalty.

CONCLUSION

72. The Hearing Tribunal accepts the Agreed Statement of Facts and Acknowledgment of Unprofessional Conduct and finds that the Allegations have been proven and constitute unprofessional conduct.

73. Having accepted the Joint Submission on Penalty for the reasons outlined above, the Hearing Tribunal makes the orders on the terms and conditions proposed by the parties:

- 1) Mr. Robinson will receive a reprimand and the Hearing Tribunal's decision (the "Decision") shall serve as the reprimand.
- 2) Within 90 days of receiving the Decision, Mr. Robinson will complete the following remedial education, at his own cost, and shall provide proof of completion to the Complaints Director:

- a. Education on documentation: Ethical Documentation and Billing for SLPs (Speechpathology.com) (<https://www.speechpathology.com/slp-ceus/course/ethical-documentation-and-billing-for-10747>).
- b. Education on time/stress management: Stress Management (NAIT) (<https://www.nait.ca/nait/continuing-education/courses/citc802-stress-management>).

If any of the required education becomes unavailable, Mr. Robinson shall make a written request to the Complaints Director to be assigned alternative education. Upon receiving Mr. Robinson's written request, the Complaints Director, in her sole discretion, may assign alternative education in which case, Mr. Robinson will be notified in writing of the new education requirements.

- 3) Within 90 days of receiving the Decision, Mr. Robinson shall submit a written reflective essay (the "Essay") to the Complaints Director on the following terms and conditions:
 - a. The Essay must be titled "The Importance of Documentation: What it Means to my Practice and Profession as an SLP";
 - b. The Essay must be at least 1200 words;
 - c. Mr. Robinson must review the following documents prior to writing the Essay:
 - i. ACSLPA's Standards of Practice (<https://www.acslpa.ca/members/standards-of-practice/>);
 - ii. ACSLPA's Guideline on Clinical Documentation and Record Keeping (June 2021) (<https://www.acslpa.ca/wp-content/uploads/2023/01/Clinical-Doc-and-Rec-Keeping-Guideline-Jan2023.pdf>); and,
 - iii. ACSLPA's Resources on What Constitutes Timely Documentation (June 2020) (<https://www.acslpa.ca/wp-content/uploads/2019/05/What-Constitutes-Timely-Documents-Jun2020.pdf>).
 - d. The Essay must be typed and comply with professional formatting guidelines (e.g. APA);
 - e. The Essay must demonstrate:
 - i. at least 6 goals of improvement on Mr. Robinson's documentation practices as an SLP;

- ii. reflect learnings and insights from ACSLPA's Standards of Practice, Guideline on Clinical Documentation and resource, What Constitutes Timely Documentation; and
 - iii. describe Mr. Robinson's strategies, plans and supports for improving his documentation and ensuring that he complies with ACSLPA's expectations.
- 4) Mr. Robinson shall complete a period of monitoring in his employment setting (the "Monitoring Period") for a total of 120 days on the following terms and conditions:
 - a. Within 15 days of receiving the Decision, Mr. Robinson must provide a letter to the Complaints Director ("Employment Letter") from his supervisor in his primary employment setting where he is employed as an SLP. For clarity, a primary employment setting is where Mr. Robinson is employed on a full-time basis, or, where Mr. Robinson works the greatest number of hours during the week if he has more than one employment setting(s). The Employment Letter must confirm:
 - i. The location of Mr. Robinson's employment setting, including the unit(s), if applicable (the "Employment Setting");
 - ii. The name and contact information of the anticipated supervisor, or other such manager, at the Employment Setting (the "Supervisor") who will complete Mr. Robinson's Monitoring Period;
 - iii. That the Supervisor has read and reviewed the Decision and understands the requirements of the Monitoring Period; and,
 - iv. That the Supervisor agrees to provide the Complaints Director with 2 letters during the Monitoring Period (the "Monitoring Letters") about Mr. Robinson following the requirements of the Decision.
 - b. The Monitoring Letters shall be provided to the Complaints Director in the following intervals:
 - i. The first Monitoring Letter shall be due 60 days after the Employment Letter is approved by the Complaints Director and shall address the first Monitoring Period of 60 days;
 - ii. The second Monitoring Letter shall be due 60 days after the first Monitoring Letter is approved by the Complaints Director and shall address the second Monitoring Period of 60 days.
 - c. During the Monitoring Period, Mr. Robinson is expected to be monitored and receive oversight regarding his documentation

practices as an SLP from the Supervisor but is permitted to work as SLP independently and therefore requires no direct or indirect supervision while performing the responsibilities of his role.

- d. Each Monitoring Letter shall confirm:
 - i. Confirmation that Mr. Robinson worked as an SLP without significant leaves of absence during the previous 60 day Monitoring Period;
 - ii. Whether the Supervisor has any concerns regarding Mr. Robinson's documentation practices as an SLP and if concerns exist, whether they were reconciled by Mr. Robinson;
 - iii. Confirmation that the Supervisor obtained feedback from other members of the healthcare team or managers and that no concerns exist regarding Mr. Robinson's documentation and if concern exist, whether they were reconciled by Mr. Robinson; and,
 - iv. Confirmation that during the previous 60 days, the Supervisor conducted at least 1 audit of Mr. Robinson's documentation as an SLP that included at least 5 patient charts and no concerns existed regarding Mr. Robinson's documentation practices as an SLP or if concerns existed, they were addressed and remediated by Mr. Robinson.
 - e. Mr. Robinson shall be responsible for any costs related to the Monitoring Period, if any costs become due.
- 5) Mr. Robinson shall pay 25% of the total costs of the investigation and hearing, to a maximum of \$3,000.00 (the "Costs") and on the following terms:
- a. The Costs are due 12 months after the date that Mr. Robinson receives a copy of the Decision;
 - b. The Costs must be paid to ACSLPA, whether or not Mr. Robinson holds an active practice permit with ACSLPA; and,
 - c. The Costs are a debt owed to ACSLPA and if not paid by the deadline indicated, may be recovered by ACSLPA as an action of debt.
- 6) Should Mr. Robinson 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 (or her delegate) may do any or all of the following:

- a. Treat Mr. Robinson's non-compliance as information for a complaint under s. 56 of the *Act*;
 - b. In the case of failure to complete the course, or pay costs within the timelines referred to above, or within the amended deadline agreed to by the Complaints Director, Mr. Robinson's practice permit will be suspended until he has complied with the outstanding order(s); or,
 - c. Refer the matter back to a hearing tribunal for further direction.
- 7) The orders set out above at paragraphs 2-5 will appear as conditions on Mr. Robinson's practice permit and ACSLPA's online public register until they are completed and notice of the conditions may be provided pursuant to section 119 of the *Health Professions Act*, as follows:
- a. Conduct requirement – Coursework required arising from a disciplinary matter;
 - b. Conduct requirement – Essay arising from a disciplinary matter;
 - c. Conduct requirement – Costs arising from a disciplinary matter;
 - d. Conduct requirement – Letters from practice setting arising from a disciplinary matter;
 - e. Conduct requirement – Practice verification arising from a disciplinary matter.
- 8) Where mutual agreement is required between Mr. Robinson and the Complaints Director relating to an outstanding requirement, and an agreement cannot be reached by Mr. Robinson and the Complaints Director on the implementation of the outstanding requirement, the Complaints Director (or her delegate) may refer the matter back to a hearing tribunal for further direction.

Signed on behalf of the Hearing Tribunal by:



Dated December 9 , 2024

Terry Engen, Chair