

**IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, being Chapter H-7
of the Revised Statutes of Alberta, 2000**

AND IN THE MATTER OF DR. KRISHNA MUDALIAR

**DECISION OF THE HEARING TRIBUNAL OF THE
COLLEGE OF DENTAL SURGEONS OF ALBERTA**

The hearing of the Hearing Tribunal was held on December 19 and 20, 2024 via videoconference

Present were:

The members of the Hearing Tribunal of the College of Dental Surgeons of Alberta (the CDSA):

Dr. B. Burgess, Chair
Dr. R. McCullough, Member
D. Wilson, Public Member
S. Dighe-Bramwell, Public Member

D. Savoie, Complaints Director, CDSA
G. Sim, Legal Counsel for the Complaints Director, CDSA
V. Wensel, Legal Counsel for the Complaints Director, CDSA

Dr. Krishna Mudaliar, Member
Mr. S. Renouf, Legal Counsel for Dr. Mudaliar

D. Jardine, Independent Legal Counsel for the Hearing Tribunal

K. Gibson, Hearings Director for the CDSA

Opening of the Hearing

1. The hearing opened via videoconference and all persons present on the videoconference introduced themselves for the record. It was noted that two members of the public were present on the videoconference as observers. The hearing was recorded by a Court Reporter, who was also present on the videoconference.

2. Each member of the Hearing Tribunal confirmed that they did not have any prior knowledge of the complaint or conflicts or bias regarding this matter. The parties did not have any objections to the constitution or jurisdiction of the Hearing Tribunal.

3. Mr. Sim requested that the Complainant in this matter be referred to by her initials, as the Complainant for confidentiality. Mr. Renouf had no objection to this request and the Hearing

Tribunal confirmed that the Complainant would be referred to as the Complainant during the hearing and in the transcript of the hearing.

4. With the agreement of the parties, the following documents were entered as Exhibits:

Exhibit 1 – Revised Notice of Hearing

Exhibit 2 – Book of Agreed Exhibits

Exhibit 3 – Agreed Statement of Facts

5. The Allegations set out in the Revised Notice of Hearing are:

Allegation 1: On or about January to March 2023, made comments or sent communications to the Complainant, a 17-year-old patient or staff member, or both, including one or more of the following:

- a. Inviting her to dinner, drinks or both;
- b. Inviting her to your home;
- c. Inviting her to travel with you;
- d. Asking “especially” her to attend a pizza party;
- e. Asking her to visit you in your office alone;
- f. Asking her for hugs;
- g. Texting her that you will “miss” her;
- h. Commenting that she has “beautiful eyes”;
- i. Commenting favourably on her skin;
- j. Commenting favourably on her attire;
- k. Commenting on the “meat” on her “bones”.

Allegation 2: On or about January to March 2023, engaged in unwelcome touching of the Complainant, or gestures towards the Complainant, including one or more of the following:

- a) Placing your hand on the back of her neck and hair;
- b) Giving her a shoulder massage;
- c) Hugging;
- d) Placing your hand on her thigh;
- e) Gesturing to kiss her through the glass;
- f) Placing your hand on her buttocks.

6. The Hearing Tribunal adjourned to review the Exhibits.

7. The Agreed Statement of Facts dealt with the following matters:

Introductory Background

- a. Dr. Krishna Mudaliar ("Dr. Mudaliar") is a General Dentist. He became a member of the College of Dental Surgeons of Alberta ("the CDSA") on March 13, 1997, and has been a regulated member at all material times.
- b. Dr. Mudaliar was a dentist at _____ Clinic ("the Clinic") located in Barrhead, Alberta at all material times.

The Complaint

- c. On March 23, 2023, the Complaints Director received a complaint from the Complainant, a previous employee of Dr. Mudaliar, via email regarding the alleged conduct of Dr. Mudaliar ("the Complaint"). The Complaint alleged that while the Complainant was working at the Clinic, Dr. Mudaliar acted inappropriately towards her through his words, comments, communications, physical touching and actions.
- d. The Complaints Director commenced an investigation pursuant to sections 55(2)(d) of the *Health Professions Act* (the "HPA") ("the Complaint") and notified Dr. Mudaliar and the Complainant about the investigations on April 24, 2023, and April 6, 2023.
- e. The Complaints Director referred the Complaint to a hearing on March 16, 2024.

The Complainant's Employment, Age and Education

- f. The Complainant was employed at the Clinic commencing on January 23, 2023, and ending upon her resignation on March 13, 2023.
- g. The Complainant's last day working in the Clinic was on March 8, 2023.
- h. The Complainant worked on a casual part-time basis at the Clinic. Her hours were after she finished school for the day or when she had days off from school (e.g., PD days).
- i. The Complainant's date of birth is _____.
- j. At the time of commencing employment at the Clinic, the Complainant was 16 years old. The Complainant turned 17 years old on _____.
- k. The Complainant was in grade _____ at _____ High School during her employment at the Clinic.

The Clinic

- l. The Clinic is owned and operated by Dr. Mudaliar.
- m. At the time of the allegations, Witness 1, Witness 2 and Witness 3 were some of the employees of the Clinic.

The Complainant's Dental Treatment

- n. The Complainant completed a patient information form on February 9, 2023.
- o. The Complainant received a free dental cleaning on February 9, 2023, from _____, a contracted registered dental hygienist _____.

- p. The Complainant also received a dental examination and x-ray from Dr. Mudaliar on February 22, 2023. Dr. Mudaliar recommended referring the Complainant to an oral surgeon from the extraction of impacted wisdom teeth.
- q. The Complainant had a patient chart within the Clinic at the time of the investigation by the CDSA.

Evidence of The Complainant

8. The Complainant was called as the first witness. In response to questions from Mr. Sim she confirmed that she was now 18 years old. She confirmed that during the period of January to March 2023 she was 17 years old having turned 17 in . [Transcript, p. 20, lines 11 to 17]

9. The Complainant confirmed that she was in Grade in January of 2023 in Barrhead Alberta and that she had a job at Clinic with Dr. Krishna Mudaliar which started on January 23, 2023. The Complainant stated that her father had recommended that she send a resume to Dr. Mudaliar and that she did so and was hired by Dr. Mudaliar. [Transcript, p. 20 line 20 to p. 24, line 11]

10. The Complainant indicated that she worked two or three days a week after school at the clinic from approximately 3:30 p.m. to 5 p.m. She confirmed that she was very excited to have the job and felt it was a great opportunity. She indicated that initially she was doing cleaning and was later taught to clean and sanitize instruments and clean up the rooms for a new patient. She indicated that after some time she was also trained to do suction and water during a treatment. She also assisted in some charting and handing instruments to Dr. Mudaliar after she was shown how to do this. [Transcript, p. 27, line 3 to line 11; p. 28 line 13 to p. 31, line 12].

11. The Complainant also described the dental intake form she filled out on February 9, 2023, on the day she received a dental cleaning at the clinic. She also described further dental services provided by Dr. Mudaliar involving an examination and x-ray later in February 2023. [Transcript, p. 32. line 14 to p. 34, line 26]

12. The Complainant stated that at the beginning working with Dr. Mudaliar was very good. She thought he was a nice person who was friendly with her. She was excited to go to the office after school and was very happy. [Transcript, p. 35, line 16 to line 22]

13. The Complainant advised that after the first couple of weeks she noticed she was being singled out or favoured. She would be asked to be alone with Dr. Mudaliar or asked to cover for other staff which she was uncomfortable with because of her limited knowledge.

14. The Complainant described how Dr. Mudaliar began making "lots of comments" about inviting her home, her making dinner for him and going out for drinks. She stated that she began hearing comments almost every time she worked. She also indicated that things progressed further, and Dr. Mudaliar began touching her including touches to her neck and her thigh and "my back and my butt". [Transcript, p. 35, line 23 to p. 36, line 24]

15. The Complainant confirmed that she had made a list of her experiences working with Dr. Mudaliar "when it became kind of to my breaking point." She described how she wrote down everything she remembered and to show what had happened. The Complainant confirmed that this list was Exhibit 2, Tab 12. [Transcript, p. 37 line 3 to line 10].

16. The Complainant reviewed a list she had provided to the investigator Mr. Spinks and described incidents where she was touched by Dr. Mudaliar on her neck, her arm and her hair. She confirmed that she did not tell Dr. Mudaliar that he could do this and described how helpless she felt. She confirmed that there were multiple incidents including touching her back and "my butt". a She described these incidents and how they made her feel. [Transcript, p. 40 line 11 to p. 46, line21]

17. The Complainant also described comments by Dr. Mudaliar inviting her to his home. She described one incident where he told her that she should come to his house and "make him chicken and keep him company for the night." She indicated that when she heard this she completely froze. [Transcript, p. 47, line 8 to p. 48, line 8]

18. The Complainant also described being invited to go for drinks after work when she was underage and described an incident during an International Women's Day celebration at the clinic where he offered her beer despite her being underage. [Transcript, p. 48, line 9 to 16]

19. The Complainant also described an incident during the winter where Dr. Mudaliar pretended to kiss her through the glass and described how this upset her. [Transcript, p. 49, line 3 to line 15]

20. The Complainant stated that Dr. Mudaliar constantly wanted hugs from her. She stated that he did not ask permission to hug her and that she never voluntarily hugged him. The Complainant acknowledged that was common for her to hug other people at the clinic but not Dr. Mudaliar. [Transcript, p. 49, line 16 to p. 50, line 9]

21. The Complainant also described comments on her body including her eyes and how good her skin looked. [Transcript, p. 50 line 10 to line 26]

22. The Complainant also described an incident where she was going to Tim Hortons and Dr. Mudaliar came with her. She stated that she was complaining about the cold and stated that Dr. Mudaliar told her that "he liked that I had more meat on my bones, that he preferred that I had more meat on my bones". She stated that she did not recall how she replied because she felt sick. [Transcript, p. 50 line 27 to p. 52, line 14]

23. The Complainant also described Dr. Mudaliar asking for her phone number and then texting her messages and requesting that she text him. She also described him telling her to be at an International Woman's Day pizza party for staff and that he wanted to honour all women but especially her. [Transcript, p. 52 line 15 to p. 53, line 13; p. 55 line 15 to p. 56, line 22]

24. The Complainant reviewed a series of text messages with Dr. Mudaliar after she had handed in her resignation letter to the office. She also described text messages and conversations with other staff members when she submitted her letter of resignation. [Transcript, p. 54, line 17 to p. 58, line 8]

25. The Complainant described how her experiences with Dr. Mudaliar had impacted her. She also described Dr. Mudaliar acting aggressively to her including yelling at her when she made mistakes or was unsure what to do. She stated that working with Dr. Mudaliar made her "feel horrible actually" and felt that "he needed someone that he could control and have as his own and be aggressive and rude and wrong towards someone because they are at a younger vantage point". [Transcript, p. 60 line 12 to p. 62, line 8]

26. The Complainant confirmed that Exhibit 2 was her letter of complaint to the College and confirmed that she felt she had discussed all the concerns in the letter during her evidence. [Transcript, p. 62, line 12 to p. 63, line 1]

27. Mr. Sim referred The Complainant to the last paragraph of her complaint letter, and she confirmed that she had stated that she believed she was hired for one reason, that Dr. Mudaliar was attracted to her. [Transcript, p. 68, lines 6 to 13].

Cross-examination by Mr. Renouf

28.

29. Mr. Renouf also asked questions about the Complainant's resume that she provided to the College investigator. He asked about the work experience section of the resume including working at _____ as a volunteer, the _____ and _____ as a cashier. He also referred to the reference to work at the _____ as a comfort care aide.

30. The Complainant explained the reference in her resume to _____ School work experience which she started at the same time she was working at Dr. Mudaliar's office.

31. Mr. Renouf suggested to the Complainant that he anticipated that Dr. Mudaliar would advise the Hearing Tribunal that she had requested additional hours at the medical clinic. The Complainant said this might have been the case at the beginning when she was working "maybe one shift per week" but after this increased to two or three times a week "I was

perfectly fine and it was almost too much for me at that point". [Transcript, p. 74, line 14 to line 26]

32. Mr. Renouf questioned the Complainant about her suggestion that Dr. Mudaliar had invited her to his home. Mr. Renouf asked the Complainant to clarify whether she had stated "that Dr. Mudaliar said something like come and make chicken for me and stay the night." The Complainant said this was not what she said. She stated that she had said that "he invited me home for dinner to keep him company" and that there was no mention of staying the night.¹

33. Mr. Renouf also questioned the Complainant about her allegation that Dr. Mudaliar invited her to travel with him to Seattle for his mother's birthday and that she got a card for Dr. Mudaliar for his mother. He suggested that he would be calling evidence that the Clinic was closed from February 9 to February 13 and suggested that the Complainant did not work any hours between February 9 and February 22. Mr. Renouf suggested that this was an allegation that the Complainant made up and that it was not true. [Transcript, p. 76 line 25 to line 27]

34. The Complainant stated that Mr. Renouf's suggestion that she made up this allegation was incorrect. She stated that on the day Dr. Mudaliar was leaving for Seattle she was asked to shine his shoes. Mr. Renouf suggested that Dr. Mudaliar's Mother did not live in Seattle but in Vancouver. The Complainant said that she was told it was Seattle and to get a card for Dr. Mudaliar's Mother. [Transcript, p. 77, line 1 to line 11]

35. Mr. Renouf suggested to the Complainant that Dr. Mudaliar was going to Seattle for an engagement party of one of his sons and that he and his wife were going together. He asked if this helped the Complainant to remember the conversation. The Complainant said that it did not. [Transcript, p.77 line 8 to line 19]

36. Mr. Renouf noted that that the Complainant had not mentioned shining shoes in her complaint to the College on in her interview with the College investigator. The Complainant stated that this was "because it does not involve sexual harassment" [Transcript, p. 77 lines 20 to 24]. Mr. Renouf asked why the Complainant was bringing it up "today" in her evidence and she stated: "Yes, because it indicates how and what the nature of the relationship kind of turned to towards the end."

37. In response to further questions on this point from Mr. Renouf, the Complainant acknowledged that shining the shoes would have occurred before the trip to Seattle. Mr. Renouf stated that he expected Dr. Mudaliar to give evidence that he was taking some new shoes out of shoebox and could not figure out how to thread the laces and that the Complainant showed him how to thread the laces.

¹ The Hearing Panel notes that as set out in paragraph 17 above, the Complainant did state earlier in her evidence that she remembered telling Dr. Mudaliar that she was going to make chicken when she got home and that "He told me that I should come to his house and make him chicken and keep him company for the night". [Transcript, p. 47, lines 20 to 25]

38. The Complainant advised that she recalled this incident and that this was when Dr. Mudaliar asked her to shine the shoes. Mr. Renouf questioned why Dr. Mudaliar would ask the Complainant to shine new shoes. He suggested that Dr. Mudaliar had not asked the Complainant to shine the shoes. The Complainant stated that Dr. Mudaliar had asked her to shine the shoes, and she had "told him no" [Transcript, p. 79, lines 5 to 8].

39. Mr. Renouf suggested he understood from Dr. Mudaliar both in his letter to the College and what Mr. Renouf anticipated would be his evidence that the only times the Complainant came into Dr. Mudaliar's office was when she wished to talk to Dr. Mudaliar. The Complainant stated that this was incorrect. Mr. Renouf suggested that one of the things the Complainant wanted to talk about was getting increased hours. The Complainant said that this was incorrect. [Transcript, p. 79, lines 9 to 18]

40. Mr. Renouf suggested rather than Dr. Mudaliar requesting hugs from her, she was the person who tended to ask people for hugs. The Complainant stated that she only hugged women in the office as a way to greet them or when leaving or occasionally if she was having a rough day. She stated that she did not indicate to Dr. Mudaliar that she wanted a hug from him. [Transcript, p. 79, line 19 to 26]

41. Mr. Renouf suggested that on the first day after a weekend, the Complainant came into the reception area and said "did you miss me? Who wants a hug?" The Complainant said this was "only to the women at the front" [Transcript, p. 80, lines 1 to 6]. She acknowledged that Dr. Mudaliar might have heard her saying this.

42. Mr. Renouf questioned the Complainant about the Complainant and Dr. Mudaliar walking to Tim Hortons. She did not agree that she invited Dr. Mudaliar and stated that he advised that he was coming with her. She confirmed that this was in the winter and she and Dr. Mudaliar were wearing winter jackets. [Transcript, p. 80, line 13 to p. 81, line 1]

43. Mr. Renouf suggested that there was "no discussion at all" about Dr. Mudaliar telling the Complainant about "having meat on your bones". The Complainant disagreed and stated that this did happen, and Dr. Mudaliar did make this statement to her on the walk to Tim Hortons. [Transcript, p. 81 line 2 to line 15]

44. Mr. Renouf suggested that Dr. Mudaliar did not at any time complement her on her skin. The Complainant stated that this was incorrect and that this did happen approximately one to three times. She acknowledged to Mr. Renouf that this could have been only one time. In describing this compliment, she indicated that this occurred near the beginning of her work and "that was one that I kind of just thought it was more a regular compliment, and I didn't see that one as very, like, targeting or anything." [Transcript, p. 83 lines 11 to 25].

45. Mr. Renouf questioned the Complainant about her statement that on one occasion Dr. Mudaliar touched her hair and asked if she understood that Dr. Mudaliar's answer to this would be that it never happened. The Complainant stated that she understood that Dr. Mudaliar was denying that this occurred.

46. Mr. Renouf then questioned the Complainant regarding her allegation that Dr. Mudaliar put his hand on her thigh. She stated that this occurred while she was sitting down at the computer desk, the second desk which is in the front of the clinic where patients check in. The Complainant confirmed that this occurred when Dr. Mudaliar handed her a chart and placed his hand on her thigh while he was giving her the chart and then released his hand on her thigh when he released the chart. [Transcript, p. 85 line 11 to p. 87, line 14]. She acknowledged that she understood that Dr. Mudaliar would state that this incident never happened, and he never touched her thigh. She also confirmed that she that she believed that Dr. Mudaliar's touch on her thigh was intentional.

47. Mr. Renouf then asked the Complainant about the incident where the Complainant stated that Dr. Mudaliar touched her "butt" or buttocks. She acknowledged that this happened just before she resigned but did not recall exactly which day. Mr. Renouf presented the Complainant with a record created by another staff member, Witness 2 which showed that the Complainant's last day of work was on March 8th which was International Women's Day which was also the day of the pizza celebration. The Complainant acknowledged that this seemed correct to her. [Transcript, p. 87, line 15 to p. 88 line 21]

48. Mr. Renouf then asked about when the Complainant felt the incident of touching her buttocks occurred. She advised that she believed this occurred between February 23 or 27 and March 8. She confirmed that she did see Witness 3 in the office on the day of the incident. [Transcript, p. 89, line 5 to p. 90, line 23]

49. Mr. Renouf also questioned the Complainant about the incident where she pressed her nose against the window while cleaning the front windows of the clinic. She confirmed that when she pressed her nose against the window, she knew that Dr. Mudaliar was on the other side of the window and that he was coming into the clinic. [Transcript, p. 91, line 11 to p.93, line18]

50. The Complainant was asked by Mr. Renouf about drafting her resignation letter which was dated on March 10th and bringing it to the clinic on March 13. The Complainant stated that she was not planning to resign on March 8th but after talking with _____ and then talking with her grandmother who told her it was time to resign, she prepared her resignation letter. [Transcript, p. 94, lines 4 to p. 96, line 12]

51. The Complainant acknowledged that when she spoke with the CDSA Investigator and advised that someone had seen Dr. Mudaliar touch her "butt" she was referring to information from Witness 1 who had told her the Witness 3 had seen Dr. Mudaliar touching her "butt".

52. Mr. Renouf asked the Complainant to acknowledge that her resignation letter and her complaint to the CDSA was in respect to what she saw as an unsafe and hostile work environment. The Complainant confirmed this and agreed that she had no complaint as to how she was treated as a patient by Dr. Mudaliar. [Transcript, p. 97, line 1 to line 9 and p. 98, lines 11 to 23]

53. The Complainant agreed that she had never advised Dr. Mudaliar that she was feeling scared or irritated or upset with his behaviour. The Complainant stated that this was because she was scared to do so. [Transcript, p. 98, lines 24 to 27 and p. 99 lines 1 to 5]

54. Mr. Renouf concluded his examination of the Complainant by having her confirm that her only dental complaint to Dr. Mudaliar was that she had facial and neck pain which he examined her and suggested this related to her wisdom teeth situation.

Re-examination by Mr. Sim

55. Mr. Sim asked the Complainant about her text messages with Witness 1 and when she decided she would have to stop working at the Clinic. The Complainant advised that she made her decision to quit after the March 8 International Women's Day pizza party following her meeting with her [redacted] and her talk with her grandmother. She advised that she made this decision on March 10th when she wrote her resignation letter. [Transcript, p. 101, line 25 to p. 103, line 10]

56. The Complainant stated that she knew she could not keep going the on the way things were going because it was making her feel unsafe and uncomfortable. [Transcript, p. 103, line 11 to line 16]

Questions from the Hearing Tribunal

57. The Hearing Tribunal asked about a text the Complainant received on March 2nd from Dr. Mudaliar saying that he would miss her. She confirmed that this was the first text she had ever received. She clarified that she had been wrong in saying that Dr. Mudaliar's trip to Seattle was March 2nd and she was unaware of what the conversation was that led to this text. She advised that she just recalled Dr. Mudaliar asking for her phone number and then him sending her this message. [Transcript, p. 104, line 16 to p. 105, line 20]

Evidence of Witness 1

58. Witness 1 advised that she currently resides in the Barrhead area and works at [redacted] in Barrhead. She indicated that she had been working at [redacted] Clinic until approximately a month prior to the hearing and had worked there from the summer of 2022 to November 2024 with the exception of her maternity leave from the end of May 2023 to the end of May 2024.

59. Witness 1 indicated that she left [redacted] Clinic because she wanted more stability in her hours. She explained that at [redacted] Clinic she would get sent home early often if there were no patients and she needed more stability of an accurate workday.

60. Witness 1 advised that her role at [redacted] Clinic was chairside assisting and cleaning the operatory and sterilization of the tools. She advised that she had not had any training prior to working at the clinic.

61. Witness 1 stated that the Complainant was hired before Witness 1's maternity leave which started in May 2023. She recalled that the Complainant worked at the clinic for approximately two months and that she understood that the Complainant was 16 when she was hired.

62. Witness 1 felt that she had a good working relationship with the Complainant and felt like she was a mentor to the Complainant who learned by watching Witness 1 carry out her duties. Witness 1 believed that she worked with the Complainant one or two times a week. [Transcript, p. 113 line 21 to p. 114, line 5]

63. Witness 1 recalled an incident where Dr. Mudaliar looked at the Complainant and said you have really nice eyes or beautiful eyes or something like that. She stated that this seemed to come out of the blue. Witness 1 stated that the Complainant looked at her and made a "weirded-out face." [Transcript, p.117, line 14 to p. 119, line 3]

64. Witness 1 described an International Women's Day celebration held by Dr. Mudaliar for the staff. She recalled the Complainant arriving to pick up her cheque while the celebration was happening. She did not recall the Complainant consuming any beverage and did not think she stayed long enough to do so. [Transcript, p. 120, line 6 to p. 121, line 22]

65. Witness 1 recalled an invitation from Dr. Mudaliar to the Complainant to come to the Dallas Pub after work with staff members. She remembered that the Complainant stated that she was underage and could not come. [Transcript, p. 122, line 14 to p. 123, line 19]

66. Witness 1 confirmed that she had discussions with the Complainant in person and over text as to why she left the Clinic. Mr. Sim then reviewed with Witness 1 a series of text messages between Witness 1 and the Complainant. She acknowledged that she had provided these text messages during the investigation when she was interviewed. [Transcript, p. 124, line 17 to p. 126, line 5]

67. Mr. Sim referred Witness 1 to a text message to the Complainant that stated: "Witness 2 and I have noticed. We have been kinda brainstorming on how to help you deal with it/find a solution." [Transcript, p. 127, lines 7 to 14]

68. Witness 1 indicated that when she referred to "Witness 2 and I have noticed" she was referring to the interactions between the Complainant and Dr. Mudaliar. When asked what interactions she recalled Witness 1 mentioned the compliments from Dr. Mudaliar to the Complainant about her eyes and an occasion on which Dr. Mudaliar invited the Complainant to his house for supper. She indicated that "I was just weirded out" because the Complainant was a 16-year-old girl. [Transcript, p. 127, line 15 to p. 129, line 8]

69. Mr. Sim also referred Witness 1 to her text message where she said:

Once you come in today we'll talk with Witness 2 to see what can be done. Cuz that is NOT okay. He's being a creep. [Transcript, p. 129, lines 14 to 18]

70. Witness 1 was asked what she meant by this text. Witness 1 referred to being told about Dr. Mudaliar saying to the Complainant that he missed her and about being told by the Complainant that Dr. Mudaliar had touched her "butt". However, she also noted she was pregnant, and her emotions were high when she sent this text. [Transcript, p. 129, line 19 to p. 30, line 1]

71. Witness 1 confirmed that she sent a text to the Complainant which stated: "you're vulnerable and he took advantage of that." Witness 1 stated that she was referring to this being the Complainant's first job, so she was new to the work force and vulnerable and that if Dr. Mudaliar was making her feel this way, she felt the Complainant was being taken advantage of. [Transcript, p. 130. Lines 2-15]

72. Witness 1 also confirmed that she sent a text stating: "You could mention that there was personal issue with him, and he crossed boundaries????". Witness 1 clarified that this was based on what the Complainant was telling Witness 1 about what was happening. [Transcript, p. 130, lines 16 to 27]

73. Witness 1 also described the layout of the Clinic and identified a drawing of the Clinic that she drew during the investigation of the Complainant's complaint. She then identified the various rooms that were shown in the drawing.

Cross-Examination by Mr. Renouf

74. Witness 1 confirmed to Mr. Renouf that she did not at any time observe any hugging between the Complainant and Dr. Mudaliar. She also confirmed that she thought the International Women's Day celebration to be a nice thought by Dr. Mudaliar.

Questions from the Hearing Tribunal

75. In response to questions from the Hearing Tribunal, Witness 1 confirmed that she did not recall any touching or hugging with anybody in the office. She also advised that staff were told about the International Women's Day celebration and pizza by word of mouth.

76. Witness 1 was asked whether she and Dr. Mudaliar texted during the time she worked and the Clinic. She advised that this did not happen very often and that the texts were work-related.

Evidence of Witness 2

77. Witness 2 confirmed that she was employed at _____ Clinic and had been employed at the Clinic for the last 3 years. She advised that her current position was as office manager and that she had been office manager for about a year. She also confirmed that she has been a registered dental assistant since 2003.

78. Witness 2 described her relationship with Dr. Mudaliar as professional. She noted that her husband sometimes golfs with Dr. Mudaliar. She indicated that she did not socialize very

often with Dr. Mudaliar outside office hours. She described Dr. Mudaliar's communication style with staff members as "pretty straight forward".

79. Witness 2 confirmed that she knew the Complainant through her work at the dental clinic two years ago. She believed that the Complainant was there for three or four months and that she was 17 and in Grade when she worked at the clinic.

80. Witness 2 was asked who was working at the clinic while the Complainant was working there. She indicated Witness 3, Witness 1 and herself. She confirmed that by referring to Witness 3 she was referring to Witness 3 and by referring to Witness 1 she was referring to Witness 1. Witness 2 was asked to describe the staff or team dynamic and she stated "It was good at the time. We – we got along." [Transcript, p. 143, lines 4-7]

81. Witness 2 confirmed that at the time the Complainant was working at the clinic the staff members and Dr. Mudaliar would sometimes socialize outside of the clinic. She advised that sometimes Dr. Mudaliar would take the staff to lunch sometimes we would go for a drink after work. She did not recall the Complainant attending any of these social events.

82. Witness 2 described the Complainant's role at the clinic as being "just there to help out. So like, garbages, sterilization, some cleaning. Just light duties. She would answer the phone sometimes". [Transcript, p.143, line 27 to p. 144, lines 1 to 3]

83. Witness 2 was asked to describe the Complainant as an employee of the clinic and stated: "I thought she was good. She was happy and bubbly, and she did her job". Witness 2 also stated that she thought the Complainant and Dr. Mudaliar "got along really well" and "they would talk to each other and poke fun at each other, kind of banter, tell jokes back and forth, stories." [Transcript, p. 145, lines 4 to 20]

84. Witness 2 recalled the Complainant hugging Dr. Mudaliar once in the front reception. She advised that she thought this was after the Complainant had some time off and "we all joked that we missed her, and then she hugged Dr. Mudaliar. He looked a little uncomfortable." [Transcript, p. 147, lines 8 to 12]. She described the hug as "It would be like if you hugged a stranger. No body contact, just a kind of arms extended." [Transcript, p. 147 lines 23 to 27 and p. 148 lines 1-2] She was not sure she remembered details of the hug.

85. Witness 2 remembered that the Complainant's "bubbly demeanor" changed "a little bit" a few days before she left. She recalled the Complainant as "just quieter". [Transcript, p. 148, lines 19 to 27 and p. 149, lines 1 to 3]

86. Witness 2 recalled that the Complainant gave notice that she was going to stop working at the clinic by bringing a letter in. She recalled herself and Witness 1 being present. She recalled that the Complainant was crying. Witness 2 stated that she did not read the letter and had no conversation with the Complainant who came in and then left very quickly after she dropped off the letter. [Transcript, p. 149, lines 14 to 27 and p. 150, lines 1 to 4]

87. Witness 2 recalled that the Clinic celebrated International Women's Day while the Complainant was employed at the Clinic. She believed that the individuals present were Dr. Mudaliar, Witness 3, Witness 1, the Complainant and herself. She recalled beer and wine and snacks being available. She thought that only herself and Dr. Mudaliar consumed beer or wine as Witness 1 was pregnant at the time. She did think that the Complainant stayed more than approximately half an hour at the event.

88. Witness 2 confirmed that this event was not a celebration that had occurred every year and it had not occurred since the time that the Complainant was present.

89. Witness 2 was asked how Dr. Mudaliar managed conflict with staff members or between staff members at the clinic. She stated "Not always well. Sometimes he gets upset and raises his voice". She was asked how Dr. Mudaliar communicates when something goes wrong and stated: "He becomes impatient sometimes. Some – says some things that maybe aren't appropriate in front of the patient. Sometimes mean to the staff." [Transcript, p. 152, lines 11 to 25]

Cross-examination by Mr. Renouf

90. Mr. Renouf asked Witness 2 about a document she had prepared at the request of his office which had previously been marked as Exhibit A for Identification. She confirmed that for the period of January 23 to March 8th she had written down the working days and hours of Witness 3 and the Complainant. She confirmed that the document showed that the Complainant started on January 23, 2023, and her last day was March 8, 2023.

91. Witness 2 also identified a "yellow sticky" with a question mark. She confirmed that this was her best estimate of when Dr. Mudaliar was away in Seattle. She also stated that she believed that this was something to do with his son's engagement. This document was then marked as Exhibit 4.

92. In response to a question from Mr. Renouf, Witness 2 advised that she had not seen any touching by Dr. Mudaliar of the Complainant other than the one hug she had previously described. [Transcript, p. 155 lines 26 to 27 and p. 156, lines 1 to 3]

Questions from the Hearing Tribunal

93. Witness 2 was asked when she became aware that the Complainant was lodging a complaint against Dr. Mudaliar. She advised that she thought she heard the Complainant talk about it with Witness 1. She advised that she did not become aware of the Complainant's formal complaint until after the Complainant was no longer working at the Clinic. She could not remember the exact time but thought it was shortly after the Complainant left the Clinic.

Evidence of Witness 3

94. Witness 3 advised that she started working at the Clinic on March 16, 2021, shortly after she moved to Barrhead.

95. She advised that she was a dentist from India who was preparing for the equivalency examination in Canada. She noted that there a pause in the examinations as a result of COVID, so she began to work at Clinic "very casually" when they need help. She indicated that she had no regular schedule.

96. Witness 3 confirmed that she was still an employee of Clinic and believed that her last shifts were in August or July of 2024.

97. Witness 3 advised that Dr. Mudaliar was "a very nice, I would say boss." She felt that Dr. Mudaliar had been very understanding and would always help her. She noted that when her examination was postponed her was very easy going about extending the time she worked at the clinic.

98. In terms of her relationship with Dr. Mudaliar, she described him as a good boss and very kind. She stated that "sometimes he gets really grumpy" but that overall, she felt she had a very good relationship with him.

99. Witness 3 advised that her role at Clinic was as a sterilization assistant and an assistant to Dr. Mudaliar when he was treating patients.

100. Witness 3 was asked to describe how she knew the Complainant and she stated that she and the Complainant used to work together in the first half of 2023. She thought that the Complainant worked at the Clinic for one or two months but was not sure of the exact time. She knew that the Complainant was 16 or 17 years old and attending school.

101. Witness 3 advised that when she worked with the Complainant, the Complainant would come after school at around 3:30 p.m.

102. Witness 3 stated that the Complainant started helping with the sterilization, cleaning the instruments and putting the instruments in the sterilizer. She indicated that the Complainant would work in the front as well and pull charts. Witness 3 stated that eventually the Complainant would help with almost everything if they needed help such as bringing instruments when Witness 3 was assisting Dr. Mudaliar.

103. Witness 3 did not remember the Complainant assisting in any patient care or patient rooms but indicated that the Complainant would come into the patient room and observe while a patient was being treated.

104. Witness 3 described her relationship with the Complainant as good although she noted that they had "really minimum interaction". She described the Complainant as "really always happy, always smiling". She felt the Complainant would listen to her and would always help her out if she needed anything.

105. Witness 3 described the Complainant as "always happy, full of life, full of energy. She was so much, like, interested in learning new things. She will always come and ask questions,

how to do this, how to do that, you know, and – yeah, like she always carried that positive attitude in her. So that's how I would – I'll explain her." [Transcript, p. 163, lines 18 to 26]

106. Witness 3 was asked if she recalled any interactions between Dr. Mudaliar that stood out to her. She indicated that she did recall a day when she was with a patient in the operatory preparing instruments for the patient treatment, she heard someone talking and laughing which drew her attention to hallway. Witness 3 saw the Complainant walking and Dr. Mudaliar following her and saw the Complainant and then saw Dr. Mudaliar "raise his hand with his palm open to his elbow level and then kind of close it – like you know grab a ball or something And then they were – they both were gone because they were going from the main entrance of the clinic to the back. So that's all I saw." [Transcript, p. 164 lines 18 to 27 and p. 165, lines 1 to 6]

107. Witness 3 was referred to a drawing of the clinic she had provided during the investigation. She was referred to the drawing and confirmed her signature at the top and confirmed that she made this drawing or the investigator made this drawing when she was being interviewed. She then described the drawing and the references to " " (Witness 3), " " (The Complainant) and " " (Dr. Mudaliar). Witness 3 did not recall the date or time when this happened.

108. She confirmed that both the Complainant and Dr. Mudaliar were laughing. She did not recall if the Complainant was carrying anything. She remembered Dr. Mudaliar's hand being in the air somewhere between his knee and his elbow level and stated that he had raised his hand to the elbow level and that the hand was palm open with the fingers open. She indicated that eventually Dr. Mudaliar closed his hand while it was at the elbow level and believed that Dr. Mudaliar was somewhere between "half a foot or a foot away, somewhere in between that". [Transcript, p. 168, line 17 to p. 169, line 24]

109. Witness 3 recalled the hand being perhaps "half a feet" away from the Complainant "near her waist and her butt level" and stated that her observation of this was four or five seconds. She felt she was approximately 10 to 15 feet away from the Complainant and Dr. Mudaliar and stated that they were "just smiling and talking". [Transcript, p. 170 line 3 to p. 171 line 19]. In response to a question from Mr. Renouf, Witness 3 confirmed that she did not see at any point Dr. Mudaliar touching the Complainant. [Transcript, p. 172, lines 24 to 26]

Opening Statement by Mr. Renouf

110. Mr. Renouf submitted that the Hearing Tribunal should be aware of the Supreme Court case called *F.H. v. McDougall* and quoted the Supreme Court referring to the standard of proof based on a balance of probabilities and stating that "Similarly evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test." He submitted that based on this test, the Supreme Court has stated that to satisfy this test "... it must be accepted that the evidence was sufficiently clear, convincing and cogent to that judge that the party has satisfied the balance of probability test."

111. Mr. Renouf referred the Hearing Tribunal to Dr. Mudaliar's initial response to the complaint found at Tab 2 of Exhibit 2 and noted that his response was "pretty emotional" when

he stated that: This complaint is mostly to smear my name and is a pack of lies by a part-time employee who was treated very professionally and kindly by me and my staff.”

112. Mr. Renouf stated that the evidence would show that Dr. Mudaliar has been practicing dentistry for more than 40 years and that he has no history of any professional conduct complaints during that time. He noted that Dr. Mudaliar practiced in his home country of Fiji and that he has had a very varied and reputable practice history.

113. He noted that while Dr. Mudaliar became somewhat emotional in his response, he would be calmer at the hearing but that he is still adamant that he is not guilty of any unprofessional conduct with respect to the Complainant.

Evidence of Dr. Krishna Chandiran Mudaliar

114. Mr. Renouf reviewed with Dr. Mudaliar his background in Fiji including his dental education and practice with the Ministry of Health, with the United Nations Peacekeeping Force in the Middle East, and his practice in Fiji. He described moving to Canada, completing his National Dental Board Examination in 1997 and practicing in Alberta for 27 years. He advised that he opened his own practice in Edmonton in 1999 and that he has worked in Grande Prairie, Red Deer and Edmonton.

115. Dr. Mudaliar stated that he opened his practice in Barrhead in 2020. He advised that his principal residence is in Edmonton. At first, he drove from Edmonton every day, but he now has an apartment in Barrhead. His clinic is open Monday to Thursday, and he usually drives to Edmonton on Thursday evening.

116. Dr. Mudaliar advised that he has been married for approximately 42 years and has three grown children.

117. Dr. Mudaliar stated that he met the Complainant because her stepfather asked if he could give a part time job to his daughter, the Complainant. Dr. Mudaliar interviewed the Complainant and hired her to do “jobs away from the patient”. He stated that the Complainant “worked in the steri and she cleaned the office under supervision”. [Transcript, p. 185 lines 20 to 27]

118. Dr. Mudaliar advised that he did not intend to train the Complainant for chairside work because he had two assistants. He noted that it was very hard to find staff in Barrhead.

119. Mr. Renouf asked Dr. Mudaliar about the Complainant’s resignation letter on March 13, 2023. Dr. Mudaliar advised that the resignation letter was put on his desk. He stated that he was worried about the Complainant, and this was why he obtained her phone number from one of the staff and texted the Complainant.

120. Mr. Renouf reviewed with Dr. Mudaliar the list that the Complainant provided to the investigator Mr. Spinks outlining her concerns.

121. Dr. Mudaliar denied touching the Complainant's neck and her arms. He stated that he hugged the Complainant on one occasion when she invited him to hug her early in her time at the office. He stated "And I'm not a huggy person. I don't hug anybody". He advised that this one hug was to make the Complainant "feel, you know at ease". He stated that this hug was in front of all the staff. [Transcript, p. 189, lines 16 to 25]

122. Dr. Mudaliar denied ever touching the Complainant's thigh or her "butt". He also denied touching her back other than placing his hands on her shoulders when he hugged her.

123. Dr. Mudaliar also denied ever inviting the Complainant to his house.

124. Dr. Mudaliar was asked by Mr. Renouf about the allegation that Dr. Mudaliar pretended to kiss the Complainant. He denied that this happened and he stated that he believed this allegation related to the Complainant pretending to kiss him by pressing her nose against the inside glass of the front window. He stated that he is very conscious of germs and would never touch the outside glass with his hands and so the suggestion of kissing the glass "is, you know, far from it." He remembered staff laughing and smiling after this incident. [Transcript, p. 192, lines 1 to 17]

125. Dr. Mudaliar denied asking for hugs or hugging the Complainant except on the one occasion he had described after she hugged him. He also denied making any comments about the Complainant's body.

126. Dr. Mudaliar stated that at the beginning when the Complainant came to the office, she was not wearing scrubs. He stated that "And just to make her feel at ease, I did comment that her top looked good, it went with her skin colour. In front of everybody I said that. That's what I remember." [Transcript, p. 193, lines 9 to 15]

127. Mr. Renouf asked Dr. Mudaliar to comment on his trip to Tim Horton's with the Complainant. He stated that he did not wish to go but the Complainant insisted that there was one sandwich that he would like. He suggested that "We didn't talk about anything. We went there. I asked her which sandwich, and I paid for everything, and we came back." Dr. Mudaliar denied that he ever made a comment to the Complainant about "meat on her bones." [Transcript, p. 193 lines 16 to 27 and p. 194, lines 1 to 12]

128. Dr. Mudaliar denied ever asking the Complainant to go on a trip with him. He stated that during the time that the Complainant was working at the clinic, he took a trip to Seattle which was paid for by his wife and advised that he and his wife and his son and his future daughter-in-law went.

129. Mr. Renouf asked Dr. Mudaliar to describe his examination of the Complainant and the panoramic x-ray he took. Dr. Mudaliar advised that he determined that all four wisdom teeth were impacted. He also noted that the Complainant received a tooth clearing from one of the Clinic's registered dental hygienists. Dr. Mudaliar he planned to refer the Complainant to a specialist but the Complainant advised that she did not have the money for the surgery.

130. Mr. Renouf asked Dr. Mudaliar about the March 8 2023 International Women's Day Party. He confirmed that alcoholic and nonalcoholic drinks were available and that he did not offer alcoholic drinks to the Complainant and he also denied that he ever gave the Complainant a shoulder massage.

Cross-examination by Mr. Sim

131. Mr. Sim questioned Dr. Mudaliar about his letter in May 2023 to the Complaints Director responding to the Complaint from the Complainant. He confirmed that he was relying on his memory when he wrote this letter and did not consult any notes.

132. Dr. Mudaliar confirmed that when he hired the Complainant, he knew she was a high school student in Grade . He confirmed that he knew that the Complainant was 16 and just about to turn 17. He confirmed that the Complainant was excited to come to work with him. He denied that he intended to have the Complainant work her way up to be a chairside assistant and stated that he only gave her exposure to one patient on one day. When shown that his response to the College referred to two occasions, Dr. Mudaliar agreed that it could have been two occasions rather than one.

133. Mr. Sim asked Dr. Mudaliar why he did not document the Complainant's involvement with patients on the two occasions that he acknowledged; Dr. Mudaliar suggested that it was an oversight on his part. He confirmed that he was relying on his memory when he stated that the Complainant was involved with only two patients. Dr. Mudaliar denied that he had ever completed work on a patient with only the Complainant assisting him.

134. Dr. Mudaliar also denied that he was planning to train the Complainant to replace Witness 1 when Witness 1 went on maternity leave. On further questioning from Mr. Sim, Dr. Mudaliar agreed that he had hired the Complainant hoping she could be trained to be a chairside dental assistant.

135. Dr. Mudaliar stated that he was certain that he did not comment on the Complainant's clothing while she was in the steri centre but agreed that he did comment on her clothing. He said he was sure this comment was made when they were at the front desk.

136. Dr. Mudaliar stated that he made this comment to make her feel at home because she was not wearing scrubs. Mr. Sim pointed out that this suggestion was not made in responding to complaint or in the interview with Mr. Spinks or in response to questions from Mr. Renouf. Mr. Sim asked if Dr. Mudaliar could see how a comment made to a 17-year-old girl that her clothing looked good on her would sound like he found her physically attractive. Dr. Mudaliar did not agree.

137. Mr. Sim asked Dr. Mudaliar about his walk to Tim Hortons with the Complainant. Dr. Mudaliar agreed that he did walk to Tim Hortons with the Complainant. Dr. Mudaliar stated that the Complainant insisted that he come with her to Tim Hortons and that he had not wanted to go but agreed when she insisted.

138. Mr. Sim suggested that Dr. Mudaliar insisted on coming with the Complainant to Tim Hortons. Dr. Mudaliar denied this. Mr. Sim also suggested that Dr. Mudaliar told the Complainant that he liked that she had meat on her bones. Dr. Mudaliar also denied that he ever told the Complainant that he liked that she had meat on her bones.

139. Mr. Sim asked Dr. Mudaliar questions about whether the Complainant would come into Dr. Mudaliar's office uninvited to "chitchat" and conversations with the Complainant in his office. Mr. Sim suggested it was improbable that a 17-year-old-girl, newly employed at the dental office would invite herself into Dr. Mudaliar's private office while he was working.

140. Mr. Renouf objected to this question suggesting Mr. Sim was trying to introduce the concept of stereotypical behaviour. Mr. Sim disagreed, and he and Mr. Renouf made further submissions on this point, after which Mr. Sim advised that he was prepared to move on to a different line of questioning.

141. Mr. Sim suggested to Dr. Mudaliar that he had told the Complainant that she had beautiful eyes. Dr. Mudaliar denied this. Mr. Sim then referred Dr. Mudaliar to his interview with the College Investigator, Mr. Spinks. Mr. Sim suggested that Dr. Mudaliar told Mr. Spinks that he could have told the Complainant that she had beautiful eyes, but he did not remember.

142. In response to further questions from Mr. Sim, Dr. Mudaliar stated that he might have said that the Complainant's eyes went well with what she was wearing on that day. He stated that "I don't think I ever said beautiful eyes. I said the brown shirt – T-shirt she was wearing went well with the colour of her eyes" [Transcript, p. 242, lines 7 – 16].

143. Mr. Sim asked Dr. Mudaliar about the Complainant saying that Dr. Mudaliar commented favourably on her skin. Dr. Mudaliar denied that he said this.

144. Mr. Sim referred Dr. Mudaliar to his interview with Mr. Spinks and suggested that he told Mr. Spinks that "you said you thought her shirt went well with her skin, didn't you?" Dr. Mudaliar stated:

That's what I am saying. Her – I commented on her shirt, that it looked good on her what – with her skin or eyes. I did not say beautiful skin or eyes. I did not –

Q Right

A. -- add adjectives to that.

[Transcript, p. 243, lines 1 to 8]

145. Mr. Sim put to Dr. Mudaliar that "you commented favourably on the Complainant's skin and her attire and her eyes." Dr. Mudaliar responded:

Well, not favourable in a sexual way. Favourable in presenting herself ... as a worker"

[Transcript, p. 243, lines 9 to 15]

146. Mr. Sim then asked Dr. Mudaliar whether he "could understand how a 17-year-old girl hearing comments like that from a grown man may perceive them as a comment that you found her physically attractive. Yes? [Transcript, p. 243, lines 16 to 19]

147. Mr. Renouf objected to this question and Mr. Sim responded. After a brief caucus, the Hearing Tribunal directed that Dr. Mudaliar should answer the question. Dr. Mudaliar stated that "With my training I don't think I can answer that question." Mr. Sim asked "Why, not Dr. Mudaliar" and Dr. Mudaliar stated, "I'm not a psychiatrist or a psychologist" I'm a dentist." He then confirmed that he was declining to answer the question. [Transcript, p. 245, lines 15 to 25]

148. After further discussion with Mr. Sim, Dr. Mudaliar then was asked by Mr. Sim: "Okay. So you are answering the question, no, you don't think the Complainant could have interpreted that as a statement that you found her physically attractive." Dr. Mudaliar responded "No". [Transcript, p. 246, lines 9 to 12]

149. Mr. Sim then questioned Dr. Mudaliar about a series of text messages with the Complainant [Exhibit 2, Tab 8]:

March 2, 2023 – Dr. Mudaliar texted the Complainant "hello there. I will miss you." Dr. Mudaliar confirmed that he was saying he would miss the Complainant between Thursday afternoon and the next time he saw her at the Dental Clinic. He also confirmed that the Complainant responded by saying "that's so kind. See you Monday."

March 8 – Dr. Mudaliar asked: "where are you" and in separate bubble stated, "I miss you."

150. Dr. Mudaliar was asked by Mr. Sim why he was suggesting that he was missing the Complainant at work when it was a Wednesday at 9:45 a.m.? Dr. Mudaliar suggested that he was not sure what day the Complainant would come in early because "Some days she – she had a PD Day or something. " At this point, Mr. Sim referred to Exhibit 4 which showed that for March 8, 2023, the Complainant worked from 3:30 to 5:15 p.m. and Dr. Mudaliar agreed he had no reason to disagree with this schedule. [Transcript, p. 246 line 13 to p. 250 line 11]

151. Mr. Sim then referred to Dr. Mudaliar to a further text in which he wrote that he was "buying pizza at 5 honouring all women especially you. Be there please." [Transcript, p. 250 line 27 to p. 251, line 3]

152. Dr. Mudaliar agreed that this was something he decided to do for International Women's Day on March 8, 2023. In response to a further question from Mr. Sim Dr. Mudaliar stated that he "wouldn't know" if International Women's Day happens every year on March 8. He agreed that he had never had this celebration before and has not done this since.[Transcript, p. 251, lines 4 to 26]

153. Mr. Sim confirmed with Dr. Mudaliar that he employed a number of women at his dental practice in Barrhead, some of whom had worked for his practice for "a fair amount of time". He agreed that these women worked hard and had gotten to accomplished places in their life and were good employees. He agreed that he also had women working with him in Edmonton who were good employees. [Transcript, p. 251, line 27 to p. 253, line 3]

154. Mr. Sim asked why, given that he had all these professional women working for him, his text to the Complainant said that he was buying pizza "to honour all women especially her"? Dr. Mudaliar suggest that this was "Because she was new and she was young. Like, she wasn't in the working industry of that long, so I wanted her to come." Dr. Mudaliar denied Mr. Sim's suggestion that this was Dr. Mudaliar singling out the Complainant. Dr. Mudaliar suggested that he wanted the Complainant to come because the Complainant was new. [Transcript, p. 253, line 4 to line 25]

155. Mr. Sim questioned Dr. Mudaliar about hugs with the Complainant. He referred to Dr. Mudaliar's interview with Mr. Spinks where hugs were discussed and Dr. Mudaliar agreed that there was a second hug. [Transcript, p.255 line 4 to line 17]

156. Mr. Sim asked Dr. Mudaliar about his trip to Seattle. Dr. Mudaliar advised that he was in Seattle for his son's engagement. He agreed that when he visits Seattle, he has a habit of driving up to Vancouver to visit his mother. He agreed that this was his plan in February 2023 to go to Seattle for the engagement and then drive to Vancouver to see his mother and then drive back to Seattle. Mr. Sim suggested that this was why the Complainant thought he was going to see his mother in Seattle and Dr. Mudaliar replied that "I don't know what she thinks". [Transcript, p. 256 line 13 to p. 257 line 10]

157. Mr. Sim questioned Dr. Mudaliar about his policy regarding free cleanings and "all the simple treatments". Dr. Mudaliar agreed that the policy was that staff were only eligible for this after three months of work and that this was a common practice among dentists. [Transcript, p. 257, line 11 to 25]

158. Mr. Sim asked Dr. Mudaliar to agree that the Complainant received a free cleaning from Dr. Mudaliar's hygienist on February 9, 2023, less than a month after she started work. Dr. Mudaliar did not remember this but agreed that this could have happened. [Transcript, p. 257, line 26 to p. 258 line 25]

159. Mr. Sim then questioned Dr. Mudaliar about his examination of the Complainant and a panoramic radiograph he took on February 22, 2023. Dr. Mudaliar confirmed that he made an entry in the Complainant's patient record on that day

[Transcript, p. 260, line 1 to to p. 261, line 1]

160. Mr. Sim questioned Dr. Mudaliar about having an apartment in Barrhead. Mr. Sim suggested that Dr. Mudaliar invited the Complainant to his apartment to make dinner for him. Dr. Mudaliar denied that this happened. Mr. Sim then referred to Witness 1 testimony where

she said she overheard Dr. Mudaliar invite the Complainant to his apartment. Dr. Mudaliar responded:

A I don't now where she heard it. I – I didn't say that.

Q So your evidence is that she did not hear that?

A I don't know.

[Transcript, p. 261, line 8 to line 23]

161. Mr. Sim referred Dr. Mudaliar to his letter to the College in response to the complaint referring to a mistake made by the Complainant by omitting to remove her gloves before going into a drawer to get something. Dr. Mudaliar responded "Yeah. She was told not to do that." Mr. Sim suggested that "if someone makes a mistake and their face goes all red, that's not necessarily because they are angry. It could be equally embarrassment." Dr. Mudaliar agreed that he was not able to say if she was angry or embarrassed. [Transcript, p. 262, line 23 to p. 263, line 22]

162. Mr. Sim suggested that Dr. Mudaliar raised this issue because "you were trying to suggest that the Complainant should not be believed." Dr. Mudaliar responded "Well, certain things she said. I don't believe those". [Transcript, p. 24 line 18 to line 20]

163. Mr. Sim reviewed Exhibit 2, Tab 6 which were patient records and discussed the treatment plan for a mouth guard. As a final question, Mr. Sim referred Dr. Mudaliar to a file folder that was Exhibit 2, Tab 6. Dr. Mudaliar confirmed that this was a patient records folder from his office for the Complainant. [Transcript, p. 266 line 5 to line 12]

Re-Examination by Mr. Renouf

164. Mr. Renouf confirmed with Dr. Mudaliar that Mr. Spinks did not ask him to produce any other patient records and confirmed the name of the hygienist who provided the cleaning to the Complainant was . [Transcript, p. 267, line 2 to line 10]

Conclusion of the Hearing

165. After a short recess, the Hearing Tribunal advised that they had no further questions for Dr. Mudaliar.

166. In response to a question from the Chair about how the legal counsel proposed to proceed, Mr. Renouf and Mr. Sim proposed that the hearing be adjourned until transcripts could be provided. He suggested that once these were provided, legal counsel would set deadlines for written submissions.

167. After further discussion it was agreed that Mr. Sim would provide written submissions by January 31, 2025, and that Mr. Renouf would provide his written submissions by February 14, 2025, and that Mr. Sim would provide his reply submissions by February 21, 2025.

168. In response to a question from Mr. Sim, Mr. Renouf confirmed that Dr. Mudaliar's case was closed.

Written Submissions of the Parties

169. The Hearing Tribunal has received and reviewed the following written submissions:

Written Submissions and Authorities of the Complaints Director received January 31, 2025

Written Submissions of Dr. Krishna Mudaliar received February 14, 2025

Reply Submissions of the Complaints Director received February 21, 2025

170. The Hearing Tribunal has reviewed all the written submissions received from the Parties. These Written Submissions are lengthy, and the Hearing Tribunal does not intend to summarize them in detail. Instead, the Hearing Tribunal will refer to the Written Submissions of both Parties where necessary as it considers the evidence and submissions relevant to each of the allegations in the Notice of Hearing.

171. The Hearing Tribunal accepts that in reaching its decision in this matter it must determine whether the allegations in the Notice of Hearing have been factually proven on a balance of probabilities. If the allegations have been proven on a balance of probabilities, the Hearing Tribunal must determine whether the proven allegations constitute unprofessional conduct.

Review and Findings Concerning the Allegations in the Revised Notice of Hearing

172. Allegation 1 alleges that from January to March 2023, Dr. Mudaliar made comments or sent communications to the Complainant, a 17-year-old patient or staff member, or both, and then lists 11 alleged particulars.

Was the Complainant a Patient of Dr. Mudaliar?

173. In considering the allegations in this matter an important initial issue is whether the Complainant was a patient of Dr. Mudaliar. Legal Counsel for the Complaints Director alleges that the Complainant was a patient of Dr. Mudaliar and refers to the dental services provided to the Complainant by Dr. Mudaliar. Legal Counsel for Dr. Mudaliar submits that Dr. Mudaliar only provided episodic care on two occasions and that the Complainant was an employee but not a patient.

174. In this case, the Complainant filed out a patient intake form and a patient file was opened. The Complainant received a free tooth cleaning on February 9, 2023, and Dr. Mudaliar conducted an examination and ordered an x-ray of the Complainant as part of his examination concerning headaches and pain in the Complainant's jaw.

175. Legal Counsel for Dr. Mudaliar suggests the Complainant's complaint was about workplace harassment. He submits that the Complainant received free episodic care and notes that none of the allegations relate to the dental care provided to the Complainant. He suggests that in these circumstances, the Complainant should not be regarded as a patient of Dr. Mudaliar.

176. The evidence shows that the Complainant received professional services including teeth cleaning and an x-ray and examination by Dr. Mudaliar who provided advice to the Complainant concerning her headaches and pain. As noted above, a dental file was opened and includes notes regarding the dental services provided. In these circumstances and based on the evidence provided, the Hearing Tribunal determines that the Complainant was a patient of Dr. Mudaliar.

Review of the Allegations and Particulars

177. Allegation 1 includes eleven particulars. Particulars 1 a. and 1 b. allege that Dr. Mudaliar invited the Complainant to dinner, drinks or both and invited her to his home. Dr. Mudaliar denies these allegations. The Complainant testified that Dr. Mudaliar invited her to go for drinks on multiple occasions despite her being underage and specifically discussed being invited to the International Women's Day celebration. She stated that that she declined an offer of a beer and ate her pizza and left. Dr. Mudaliar denied that this occurred.

178. The Complainant provided specific details about a conversation where she talked about making chicken for dinner and Dr. Mudaliar suggested she should come to his house to make dinner.

179. Witness 1 gave evidence that she was present on an occasion when Dr. Mudaliar invited the Complainant to his house for supper. She also stated that there was alcohol at the International Women's Day celebration.

180. Witness 2 recalled one occasion on which Dr. Mudaliar invited the Complainant to the Dallas Pub after work and the Complainant responded that she was underage and could not come.

181. After considering this evidence, the Hearing Tribunal accepts the evidence of the Complainant, Witness 1 and Witness 2 and finds that Particulars 1 a. and 1. b. of Allegation 1 have been proven on a balance of probabilities. The Hearing Tribunal finds that Dr. Mudaliar did invite the Complainant to his home for dinner and that he invited her to go for drinks on several occasions.

182. Particular 1 c. is that Dr. Mudaliar invited the Complainant to travel with him. The evidence presented related to a trip taken by Dr. Mudaliar to Seattle and then Vancouver for his son's engagement and an allegation that Dr. Mudaliar invited the Complainant to travel with him. The Complainant gave evidence that Dr. Mudaliar invited her on this trip. Dr. Mudaliar denied that this occurred.

183. The Hearing Tribunal has considered the evidence given by the Complainant and Dr. Mudaliar on this issue. After considering the evidence relating to the nature of the trip to Seattle involving a family celebration of the engagement of Dr. Mudaliar's son and a potential trip to Vancouver to visit Dr. Mudaliar's mother, the Hearing Tribunal finds that this allegation has not been proven. Both parties agreed that there were conversations about this trip and that the Complainant was asked to help Dr. Mudaliar with new shoes he received. However, since the complaint was related to this specific trip, the Hearing Tribunal was not convinced that Dr. Mudaliar would invite the Complainant on a trip involving a family celebration of his son's engagement.

184. Particular 1d is that Dr. Mudaliar asked "especially" for the Complainant to attend a pizza party. The Complainant testified that this occurred, and her evidence was supported by the text from Dr. Mudaliar on March 8, 2023, which states that "I am buying pizza at 5 honouring all women especially you. Be there. Please."

185. Dr. Mudaliar acknowledged that this occurred but suggested that this request was not unprofessional conduct.

186. The Hearing Tribunal finds that this Particular has been proven. Dr. Mudaliar acknowledged that he sent texts on March 8th in the morning stating that he missed the Complainant and asking where she was. He suggested that this was because he did not see her and wanted to invite her to the pizza party for International Women's Day and he thought she would be in the office. However, he acknowledged that the schedule for March 8, 2023, showed that the Complainant worked from 3:30 to 5:15 p.m. He also agreed that he had never before had a celebration on International Women's Day and never did it again.

187. Mr. Sim questioned Dr. Mudaliar about other staff who Dr. Mudaliar acknowledged were good employees and accomplished women. Mr. Sim asked why Dr. Mudaliar why he told the Complainant that he was buying pizza to "honour all women especially her"? Dr. Mudaliar stated that this was because the Complainant was new.

188. The Hearing Tribunal does not find Dr. Mudaliar's evidence on this issue and his reason for singling out the Complainant with his texts on March 8th to be credible. In the opinion of the Hearing Tribunal, these texts to the Complainant on March 8th were inappropriate and unprofessional when dealing with a very young part-time employee.

189. Particular 1e is that Dr. Mudaliar asked the Complainant to visit him in his office. Particular 1f is that Dr. Mudaliar asked the Complainant for hugs. The Hearing Tribunal has considered the evidence in this matter in relation to the allegations.

190. In the opinion of the Hearing Tribunal Particulars 1e and 1f have not been proven on a balance of probabilities. There was evidence that the Complainant was in Dr. Mudaliar's office on a number of occasions but it was not clear from the evidence given what the circumstances were regarding how the Complainant came to be in the office or the reasons she may have been in the office. There was also evidence that the Complainant hugged Dr. Mudaliar on at

least one occasion observed by other staff. However, the evidence concerning this hug which happened in the presence of other staff, does not show that the proven hug occurred in circumstances that constitute unprofessional conduct on the part of Dr. Mudaliar. None of the other staff mentioned observing any other hugs between the Complainant and Dr. Mudaliar.

191. Particular 1g is that Dr. Mudaliar texted the Complainant that he would “miss” her. On March 2nd Dr. Mudaliar sent the Complainant a text in which he stated “Hello there. I will miss you”. This text was produced in the hearing and not disputed by Dr. Mudaliar. Dr. Mudaliar acknowledges that this text was sent but suggests that it was not shown that this text was unwelcome or unprofessional.

192. Dr. Mudaliar also sent a text on the morning of March 8, 2023, stating “Where are you. I miss you.” This was sent in the morning on a day in which the Complainant was scheduled to work in the afternoon.

193. In the opinion of the Hearing Tribunal these texts were not appropriate to send to a new 17-year-old staff member and when considered together with Particulars 1a, 1b, and 1d, the Hearing Tribunal finds that this Particular was proven and constitutes unprofessional conduct.

194. Particulars 1h, 1i, 1j and 1k relate to comments made by Dr. Mudaliar to the Complainant:

- h. Commenting that she has “beautiful” eyes;
- i. Commenting favourably on her skin;
- j. Commenting favourably on her attire;
- k. Commenting on liking that the Complainant had “meat” on her bones.

195. The Complainant provided details about each of these comments and when they were made. Dr. Mudaliar acknowledged making comments about the Complainant's eyes, her skin and her attire. He suggested that these comments were made to make the Complainant comfortable. Dr. Mudaliar denied making any comment about the Complainant having “meat” on her bones.

196. After considering the evidence of the Complainant and Dr. Mudaliar regarding the alleged comments by Dr. Mudaliar, the Hearing Tribunal accepts the evidence of the Complainant that these comments including the comment about “meat” on her bones were made to her by Dr. Mudaliar. The Hearing Tribunal finds that these Particulars h, i, j, and k have been proven and constitute unprofessional conduct. These are not comments that should be made by a Dentist and Clinic Owner to a new 17-year-old employee and it was unprofessional for Dr. Mudaliar to make these comments to the Complainant.

197. Where the evidence of the Complainant and Dr. Mudaliar concerning Allegation 1 and its particulars was in conflict, the Hearing Tribunal found the evidence of the Complainant to be more credible than that of Dr. Mudaliar. The Complainant's evidence regarding an invitation by Dr. Mudaliar for her to come to his home for dinner was supported by Witness 1's evidence that she recalled Dr. Mudaliar inviting the Complainant for dinner. The texts from Witness 1 to the

Complainant also showed her concern with how the Complainant was being treated and the Complainant's texts to Witness 1 set out her concerns and are consistent with the Complainant's evidence at the hearing.

198. The Hearing Tribunal did not find Dr. Mudaliar's evidence that the Complainant insisted that he come with her to Tim Hortons to be credible. In the opinion of the Hearing Tribunal his suggestion that he did not want to go but she insisted and made him come with her was not credible. The Hearing Tribunal also did not accept Dr. Mudaliar's suggestion that he did not talk about anything with the Complainant while they were walking to Tim Hortons or while they were at Tim Hortons. Where the evidence of the Complainant and Dr. Mudaliar conflicted regarding the trip to Tim Hortons and what was said, the Hearing Tribunal accepts the evidence of the Complainant.

199. The Hearing Tribunal did not find Dr. Mudaliar's explanations for his texts to the Complainant regarding the pizza party and his explanations for his comments regarding her eyes, her skin and her attire to be credible. These comments by the owner of the clinic to a very young part time female staff member were inappropriate and unprofessional. The comment regarding Dr. Mudaliar liking that the Complainant had "meat on her bones", which the Hearing Tribunal accepts was made by Dr. Mudaliar to the Complainant, was particularly offensive and unprofessional.

200. The Hearing Tribunal finds that proven conduct of Dr. Mudaliar breached the College's Code of Ethics and, in particular, failed to maintain a safe and healthy care environment for his employee and patient, the Complainant and thereby constituted unprofessional conduct. The Hearing Tribunal also finds that the actions of Dr. Mudaliar toward his employee, the Complainant constituted harassment under the terms of the *Occupational Health and Safety Act* and constitutes unprofessional conduct.

201. The Hearing Tribunal also finds that Dr. Mudaliar's proven conduct in respect to the Complainant was conduct that harms the integrity of the profession and therefore constitutes unprofessional conduct.

202. Allegation 2 alleges that: "On or about January to March 2023 Dr. Mudaliar engaged in unwelcome touching of the Complainant, or gestures toward the Complainant, including one or more of the following:

- a. Placing your hand on the back of her neck and hair;
- b. Giving her a shoulder massage;
- c. Hugging;
- d. Placing your hand on her thigh;
- e. Gesturing to kiss her through the glass;
- f. Placing your hand on her buttocks."

203. The Hearing Tribunal finds that there was insufficient evidence for it to conclude that Particular b. of Allegation 2 was proven. While the Complainant described numerous incidents of

touching that occurred in her evidence, she did not refer to a shoulder massage in her evidence or in the notes she provided to the investigator Mr. Spinks.

204. In respect to Particular c., the Hearing Tribunal finds that there was one hug proven between the Complainant and Dr. Mudaliar in the presence of other staff. However, Hearing Tribunal does not find this single hug was proven to constitute unprofessional conduct given that this hug occurred in the office and in front of other staff.

205. The Hearing Tribunal finds that Particulars a, d., and f. of Allegation 2 were proven and that the proven Particulars a, d. and f. constitute inappropriate touching and unprofessional conduct by Dr. Mudaliar.

206. Dr. Mudaliar denied that he ever touched the Complainant. However, the Hearing Tribunal accepts the evidence of the Complainant and her descriptions of Dr. Mudaliar placing his hand on her neck and hair, and on her thigh. The Complainant was clear and consistent in her descriptions of what occurred and how it made her feel. She maintained her evidence when cross-examined. For the same reasons, the Hearing Tribunal also accepts the Complainant's evidence that, on at least one occasion, Dr. Mudaliar placed his hand on her buttocks. The texts between Witness 1 and the Complainant that were entered into evidence show that this touching was discussed in the texts and there was an indication that Witness 1 stated that she and other staff were concerned about the Complainant's treatment by Dr. Mudaliar.

207. The Hearing Tribunal recognizes that none of the staff witnesses stated that they observed Dr. Mudaliar touching the Complainant except for one hug in which Witness 2 described Dr. Mudaliar as looking uncomfortable. The Hearing Tribunal also acknowledges that Dr. Mudaliar denies that any touching occurred. However, in considering the evidence of the Complainant and Dr. Mudaliar on this issue, the Hearing Tribunal finds that it believes the evidence of the Complainant and finds her more credible on this issue than Dr. Mudaliar.

208. The Hearing Tribunal considered the fact that other staff witnesses did not testify at the hearing that they observed the touching described by the Complainant. However, despite the fact that the Complainant's evidence was not confirmed at the hearing by the other staff witnesses saying they observed this touching, the Hearing Tribunal found the Complainant's evidence more credible than Dr. Mudaliar and finds that the touching of the Complainant by Dr. Mudaliar described in Particulars 2a, 2d and 2f occurred. In the opinion of the Hearing Tribunal, the nature of the touching and the circumstances in which it occurred means that other staff may not have observed the touching that occurred. However, the Hearing Tribunal notes that the texts with Witness 1 indicate that there was a concern on the part of Witness 1 for the Complainant and Witness 1's texts suggest this was shared by other staff.

209. The Hearing Tribunal has considered the evidence regarding gestures that were made by Dr. Mudaliar and the Complainant when pressing against the glass doors of the clinic. After considering the evidence of the Complainant and Dr. Mudaliar, the Hearing Tribunal finds that gestures were made by Dr. Mudaliar through the glass. However, after considering the evidence of both Dr. Mudaliar and the Complainant, the Hearing Tribunal finds that the evidence of exactly what gestures were made by Dr. Mudaliar and how the Complainant responded was

unclear to the Hearing Tribunal. In these circumstances, Hearing Tribunal finds that the evidence was not clear enough to establish that the actions taken by Dr. Mudaliar in respect to the incident with the glass doors were unprofessional.

210. The Hearing Tribunal finds that proven conduct in respect to Particulars 2a, 2d and 2f of Allegation 2 by Dr. Mudaliar breached the College's Code of Ethics and, in particular, failed to maintain a safe and healthy care environment for his employee and patient, the Complainant and thereby constituted unprofessional conduct. The Hearing Tribunal also finds that the actions of Dr. Mudaliar toward his employee, the Complainant constituted harassment under the terms of the *Occupational Health and Safety Act* and constitutes unprofessional conduct.

211. The Hearing Tribunal also finds that Dr. Mudaliar's proven conduct in respect to the Complainant in regard to Particulars 2a, 2d and 2f of Allegation 2 was conduct that harms the integrity of the profession and therefore constitutes unprofessional conduct. The Hearing Tribunal must also consider whether any of the proven Particulars of Allegation 2 constitute either sexual misconduct or sexual abuse.

The Allegations of Sexual Misconduct or Sexual Abuse

212. The Complaints Director has alleged that Dr. Mudaliar engaged in sexual misconduct and sexual abuse of the Complainant. The Complaints Director acknowledges that, if the Complainant was not a patient of Dr. Mudaliar at the time of Dr. Mudaliar's proven conduct, his conduct cannot be found to be sexual misconduct or sexual abuse.

213. The Hearing Tribunal has determined that the Complainant was a patient of Dr. Mudaliar (See paragraphs 172 to 175 above). The Complaints Director has submitted that the Complainant became a patient of Dr. Mudaliar on February 22, 2023, when Dr. Mudaliar contributed to the Complainant's healthcare record and conducted an examination and x-rays and that the Complainant was a patient for the period between February 22, 2023, and March 13, 2023, when the Complainant resigned.

214. However, in her submissions the Complaints Director did not submit that any of Allegations 1a, 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, and 1k were sexual misconduct. The Hearing Tribunal accepts these submissions and makes no finding of sexual misconduct in regard to the proven particulars in Allegation 1.

215. The Complaints Director has submitted that Allegations 2c, 2d, and 2e are conduct that, if proven to have occurred after the Complainant became a patient of Dr. Mudaliar, meet the definition of sexual misconduct. As noted above, the Hearing Tribunal has found that Allegations 2c and 2e were not proven. As well, the Complaints Director admits that since the Complainant testified that the touching described in Allegation 2a occurred near the start of her employment and prior to her becoming a patient, the Complaints Director is not suggesting that this conduct was sexual misconduct. This leaves only Allegation 2d to be considered as potential sexual misconduct.

216. Sexual misconduct is defined in section 1(1)(nn.2) of the *Health Professions Act* as follows:

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

217. Allegation 2e relates to the alleged gestures made by Dr. Mudaliar through the glass at the clinic and the Hearing Tribunal has determined that this allegation was not proven and did not constitute unprofessional conduct. However, Allegations 2a and 2d were proven and the Hearing Tribunal accepts that the conduct in relation to Allegation 2d occurred after the Complainant became a patient of Dr. Mudaliar. While the proven conduct did not directly relate to Dr. Mudaliar's treatment of the Complainant as a patient and was focused on the Complainant as an employee, the conduct did occur while the Complainant was a patient of Dr. Mudaliar.

218. In these circumstances, the Hearing Tribunal finds that the proven allegations in Allegation 2d constitute sexual misconduct by Dr. Mudaliar. In the opinion of the Hearing Tribunal, the conduct of Dr. Mudaliar in relation to his comments and communications with the Complainant and the proven touching of the Complainant establish conduct and behaviour of a sexual nature toward a patient that Dr. Mudaliar ought to have known would cause offence or humiliation to the Complainant.

219. The Complaints Director submits that Allegation 2f concerning Dr. Mudaliar placing his hand on the Complainant's buttocks, was sexual abuse. The Complaints Director submits that this conduct occurred near the end of the Complainant's employment and that that this means that this conduct occurred while the Complainant was a patient. The Complaints Director submits that this touching was of a sexual nature as Dr. Mudaliar touched a private and intimate part of the Complainant's body without permission and was an escalation of a continuing pattern of inappropriate and sexual attention to the Complainant.

220. Sexual abuse is defined in section 1(1)(nn.1) of the *Health Professions Act* as follows:

(nn.1) "sexual abuse" meant the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:

(vi) touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by a regulated member

221. Based on its review of the evidence, the Hearing Tribunal has found that Allegation 2f was proven and Dr. Mudaliar did place a hand on the Complainant's buttocks. The Hearing Tribunal also finds that this was touching of a sexual nature. This conduct falls within the

definition of sexual abuse and the Hearing Tribunal finds that proven Allegation 2f constitutes sexual abuse on the part of Dr. Mudaliar.

Conclusion

222. The Hearing Tribunal finds that the following Particulars of Allegation 1 have been proven on a balance of probabilities and constitute unprofessional conduct on the part of Dr. Mudaliar:

- Particular 1 a. Inviting her to dinner, drinks or both;
- Particular 1 b. Inviting her to your home;
- Particular 1 g. Texting her that you will "miss" her;
- Particular 1 h. Commenting that she has "beautiful" eyes;
- Particular 1 i. Commenting favourably on her skin;
- Particular 1 j. Commenting favourably on her attire;
- Particular 1 k. Commenting on the "meat" on her "bones".

223. The Hearing Tribunal finds that the following Particulars of Allegation 2 have been proven on a balance of probabilities :

- Particular 2a Placing your hand on the back of her neck and hair;
- Particular 2d Placing your hand on her thigh;
- Particular 2f Placing your hand on her buttocks.

224. The Hearing Tribunal finds that the proven Particular 2a of Allegation 2 (Placing your hand on the back of her neck and hair) has been proven and constitutes unprofessional conduct.

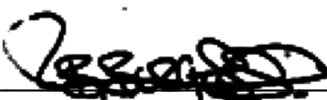
225. The Hearing Tribunal finds that the proven Particular 2d of Allegation 2 (Placing your hand on her thigh) has been proven and constitutes sexual misconduct on the part of Dr. Mudaliar.

226. The Hearing Tribunal finds that the proven Particular 2f of Allegation 2 (Placing your hand on her buttocks) has been proven and constitutes sexual abuse.

227. The Hearing Tribunal directs that the Parties advise within two weeks whether they propose to proceed with written or oral submissions on sanctions or both and directs that they propose a schedule for the submissions on sanctions. In the event the parties cannot agree on the nature and schedule for the submissions on sanctions, the Hearing Tribunal will set the nature and schedule for the submissions on sanctions.

Dated June _9____, 2025

For the Hearing Tribunal of the Alberta Dental Association and College



Dr. B. Burgess, Chair