

ALBERTA COLLEGE OF PHARMACISTS

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF

CALVIN BOEY
ACP COMPLAINT FILE 3921

DECISION OF THE HEARING TRIBUNAL

March 9, 2016

I. INTRODUCTION

The hearing tribunal held a hearing into the conduct of Calvin Boey. In attendance on behalf of the hearing tribunal were: Tony Nickonchuk, Pharmacist and Chair; Kevin Kowalchuk, Pharmacist; Rakhee Patel, Pharmacist; Peter Van Bostelen, Public Member; and Ayla Akgungor, independent counsel to the hearing tribunal.

The hearing took place on November 17, 2015 at Alberta College of Pharmacists office at 1100 College Plaza, 8215 112 St. NW, Edmonton, Alberta. The hearing was held under the terms of Part 4 of the *Health Professions Act*.

In attendance at the hearing were; James Krempien, Complaints Director, David Jardine, counsel for the Alberta College of Pharmacists representing the College and Ms. T.L. Reid, Court Reporter. Calvin Boey, the investigated member, was not in attendance, nor was any counsel in attendance on his behalf.

There were no objections to the composition of the hearing tribunal or the jurisdiction of the hearing tribunal to proceed with a hearing.

II. ALLEGATIONS

The hearing tribunal held a hearing to inquire into the following complaints or matters:

IT IS ALLEGED THAT during the period from April 3, 2014 to November 9, 2014 Mr. Boey:

1. Diverted medications from Shoppers Drug Mart #313 in Edmonton on 53 separate occasions including Zopiclone 7.5mg, Sublinox 5mg and 10mg, Dexedrine 5mg and 10mg and Nitrazepam 5mg in the approximate amounts of: 6082 Zopiclone 7.5mg tablets; 120 Sublinox 5mg tablets; 860 Sublinox 10mg tablets; 120 Dexedrine 5mg tablets; 60 Dexedrine 10mg tablets; and 280 Nitrazepam 5mg tablets for his own personal use and possibly for other undetermined uses;
2. Abused his position of trust by creating fictitious patient profiles and prescription transactions to facilitate and conceal his diversion of medications.
3. Practiced while incapacitated thereby creating an environment that endangered the public with his practice by using excessive quantities (up to 30 tablets daily of Zopiclone and other medications) before and during his shifts when he customarily worked as the only pharmacist.
4. Diverted medications for beyond his personal use.
5. Actively circumvented the abuse monitoring and support provisions he was receiving during this period as ordered by a previous hearing tribunal decision and thereby breached an order of a Hearing Tribunal made under section 82 of the

Health Professions Act regarding the establishment of and compliance with a Recovery Maintenance/Relapse Prevention Program.

IT IS ALLEGED THAT his conduct in these matters:

- a. Undermined the integrity of the profession;
- b. Is contrary to accepted pharmacy practice;
- c. Resulted in him practicing while he knowingly was impaired by drugs;
- d. Involved multiple diversions of medications over an extended period from April 3, 2014 to November 9, 2014; and
- e. Ended only when his employer discovered the diversions and terminated his employment.

IT IS FURTHER ALLEGED THAT:

- a. He not only diverted the medications, but then used his position of trust and authority as a pharmacist to falsify pharmacy records in an attempt to conceal his actions and prolong his ability to divert medications without detection; and
- b. His actions have placed patients at risk and have the potential to decrease the public's trust in the profession.

IT IS ALLEGED THAT his conduct constitutes a breach of the following statutes, regulations, and standards governing the practice of pharmacy:

- Section 1 and subsections 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Sections 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii), 1(1)(pp)(viii) and 1(1)(pp)(xii) and section 82(3)(a) of the *Health Professions Act*;
- Sections 31(2)(a) and 38 of the *Pharmacy and Drug Act*;
- Principles I(1 and 7), X(1), and XI(1, 2, 3, 4, and 5) of the ACP Code of Ethics;
- Section 4(1) of the *Controlled Drugs and Substances Act*;
- Section 51(1) of the Benzodiazepines and Other Targeted Substances Regulations;
- Section C.01.041(1) of the Food and Drug Regulations; and

- Section 31(1) of the Narcotic Control Regulations;

and that his conduct set out above and the breach of some or all of these provisions constitutes unprofessional conduct pursuant to the provisions of sections 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii), 1(1)(pp)(viii), and 1(1)(pp)(xii) and section 82(3)(a) of the *Health Professions Act*.

III. PRELIMINARY MATTERS

Mr. Jardine made a submission to proceed with the Hearing in the absence of the investigated member, at the request of the Complaints Director. The College took the position that Mr. Boey was made aware of the Hearing and that he was served in accordance with the *Health Professions Act*. The College submitted that it was important to proceed given the nature of the Hearing and the evidence being put forward to substantiate the allegations.

Mr. Jardine stated that Section 79(6) of the *Health Professions Act* allows a Hearing to proceed in absence of the member if there is proof of service of the Notice of Hearing and Notice to Attend.

He further elaborated that Section 120 of the Act sets out the requirements that define proof of service. Section 120 of the Act states that the Notice can be given by personal service or certified or registered mail to the address in the register of pharmacists or record of the registrar. Mr. Jardine asserted that, as a pharmacist, there is an obligation to maintain a current address and point of contact with the College. At present, that is also assumed to mean a current e-mail address. The Notice of Hearing and Notice to Attend in this matter was entered as Exhibit 1.

Mr. Jardine then called Ms. Margaret Morley, Hearings Director for the College, to take the Hearing Tribunal through her report, “A summary of communication respecting the service of documents to Mr. Calvin Boey (Reg. No. 8117) Regarding the Hearing of Alberta College of Pharmacists’ complaint number 3921”. Ms. Morley’s report contained the following documents:

Tab 1

- | | |
|----------------|---|
| April 9, 2015 | Email Ms. Morley to Mr. Boey at last known email address with <i>Notice of Hearing</i> scheduled for June 23, 2015 and <i>Notice to Attend</i> attached advising that original documents are being served by registered mail to his last known Edmonton address and asking Mr. Boey to phone her. |
| April 13, 2015 | Registered mail receipt for document delivery. |
| May 6, 2015 | Photocopy of returned envelope stamped “unclaimed” and contents. |

Tab 2

- May 25, 2015 Email Ms. Morley to Mr. Boey at original email address on file with the College, khevinboey@hotmail.com, asking him to phone her.
- May 25, 2015 Email Ms. Morley to Mr. Boey at different email address (khevinboey@me.com), obtained from previous correspondence from Mr. Boey, repeating request to contact and provide notification of June 23, 2015 hearing date.
- May 25, 2015 Email Ms. Morley to Mr. Jardine outlining attempts to reach Mr. Boey in order to confirm his attendance.
- May 26, 2015 Reply email from Mr. Jardine advising that the College would agree to an adjournment if more time was needed to locate Mr. Boey.
- May 27, 2015 Reply email from Mr. Boey to Ms. Morley acknowledging receipt of May 25, 2015 email to second email address and explaining inability to attend on June 23, 2015.

Tab 3

- May 28, 2015 Email Ms. Morley to Mr. Boey advising she will relay request to reschedule hearing to Mr. Jardine and will contact Mr. Boey again about a hearing date closer to September.
- May 28, 2015 Email Ms. Morley to Mr. Jardine and Mr. Krempien updating on recent email from Mr. Boey and asking if College would agree to adjournment to November 2015.
- June 1, 2015 Reply email Mr. Jardine to Ms. Morley agreeing to November timeframe.
- June 1, 2015 Email Ms. Morley to Mr. Boey confirming College agreed to adjournment to November. Advised that she would contact in September to set a new date.
- June 2, 2015 Reply email Mr. Boey to Ms. Morley thanking her and confirming his understanding that the Hearing would be rescheduled to November on the condition that he not practice pharmacy during the adjournment.

Tab 4

- Sept 15, 2015 Email Ms. Morley to Mr. Boey posing November hearing dates.
- Sept 25, 2015 Email Ms. Morley to Mr. Boey second request re November hearing dates.

Tab 5

- Oct 5, 2015 Email Ms. Morley to Mr. Boey, Mr. Jardine, Mr. Krempien, advising that the Hearing is rescheduled to November 17, 2015. *Notice of Hearing* and *Notice to Attend* attached. Email sent with tracking.
- Oct 5, 2015 Email tracking showed delivery to and reading from Mr. Jardine and Mr. Krempien. None from Mr. Boey.
- Oct 13, 2015 Notice of hearing posted on website.

Tab 6

- Oct 15, 2015 Email from individual in Singapore to Ms. Morley. Alleges she is an ex-employer of Mr. Boey and that he was in Singapore as recently as September 13, 2015.
- Oct 19, 2015 Reply email from Ms. Morley to individual advising that the Hearing is scheduled for November 17, 2015.

Tab 7

- Oct 29, 2015 Email Ms. Morley to Mr. Jardine updating on uncertainty of Mr. Boey's attendance at the Hearing and informing of unsolicited inquiry from Singapore.
- Oct 29, 2015 Reply email Mr. Jardine to Ms. Morley requesting that the Hearing proceed even in the event that Mr. Boey does not attend.

Ms. Morley explained in detail all of the evidence summarized above to the Hearing Tribunal. Her report was entered as Exhibit 2 in these proceedings.

Mr. Jardine then summarized the significance of Ms. Morley's evidence.

Mr. Jardine submitted that the evidence shows that the College sufficiently met the requirements of the Act with regard to service of the member. He claimed that although the original documents sent by registered mail to the address for Mr. Boey on file with the College were returned unclaimed, there is a later email from the member acknowledging the original hearing date of June 23, 2015, stating he was not available, and being told that the College will accept an adjournment. There is also evidence showing that Mr. Boey asked for the hearing to be moved to November, and that he was notified that the College would work toward that date.

Further correspondence, including the new hearing date and Notice of Hearing and Notice to Attend, was sent to the email address from which Mr. Boey communicated.

Finally, Mr. Jardine submitted that given the serious nature of the allegations against Mr. Boey, that this was a second hearing to deal with allegations of drug diversion by Mr. Boey, that Mr. Boey circumvented a monitoring program, and that he was given ample opportunity to respond to the Notices; the Hearing Tribunal should proceed in his absence.

Mr. Jardine stressed that the Hearing should not be delayed indefinitely by Mr. Boey's failure to respond and noted that this was not a case where the member could claim that he had no idea that a hearing was being scheduled or that allegations of unprofessional conduct were being made against him.

After considering the submissions of the College, the Tribunal was satisfied, based on the evidence presented, that the College had met the requirements of the *Health Professions Act* with regard to providing Mr. Boey with a Notice to Attend and accordingly, the Hearing Tribunal was prepared to proceed with the Hearing in the absence of Mr. Boey.

In reaching this conclusion, the Hearing Tribunal considered that the College took steps on or about April 7, 2015 to serve Mr. Boey with the Notice of Hearing and Notice to Attend by registered mail at Mr. Boey's address as shown on the register of the registrar of the College, as required by s. 120(3) of the *Health Professions Act*. At that time, the Hearing was scheduled for June 23, 2015.

When the registered mail was returned unclaimed, Ms. Morley followed up with Mr. Boey by e-mail eventually reaching him on or about May 27, 2015 through the following e-mail address: khevinboey@me.com. On this date, Mr. Boey e-mailed Ms. Morley and confirmed that his Hotmail e-mail account was no longer functional, that he could not attend a hearing on June 23, 2015 and inquiring as to what his options were. Mr. Boey also advised that he was not in Canada at this time but was resident at an institution. He also stated that he could only make local phone calls from this facility.

On May 28, 2015, Ms. Morley replied to Mr. Boey, at the khevinboey@me.com address, advising that she was certain that the hearing could be postponed and that she would contact him again closer to September. Ms. Morley also invited Mr. Boey to contact her any time before that.

On June 2, 2015, Ms. Morley e-mailed Mr. Boey, at the khevinboey@me.com address, and confirmed that the College was prepared to adjourn the June 23, 2015 hearing for up to five months with a hearing to occur prior to November 30, 2015. Mr. Boey replied to Ms. Morley's e-mail on the same date advising that he understood the terms of the adjournment.

Ms. Morley then attempted to contact Mr. Boey on both of September 15 and 25th, 2015 at the khevinboey@me.com e-mail address to confirm a hearing date. Mr. Boey did not respond to her e-mails. On October 5, 2015, Ms. Morley sent a Notice of Hearing to Mr. Boey via e-mail for a hearing to take place on November 17, 2015. As part of that correspondence, Ms. Morley asked Mr. Boey to confirm his most

current home address and indicated that the Notice of Hearing was being sent to him by e-mail because, as of June 3, 2015, he had indicated that e-mail was the only means of communicating with him at that time.

Consistent with the College's submissions on this point, the Hearing Tribunal notes that s. 41 of the Pharmacists and Pharmacy Technicians Regulation provides that regulated members must provide the College with, among other things, their home and business addresses and their e-mail address. Section 41 also requires that the member update the College with any changes in their contact information within fourteen (14) days of the change.

In this case, the College met the obligation to serve Mr. Boey with the Notice to Attend by registered mail in accordance with s. 120(3). When that was returned unclaimed, the College took the reasonable steps of following up with Mr. Boey by e-mail. The College did reach Mr. Boey by e-mail and he engaged in correspondence with the College through the khevinboey@me.com e-mail account in May and June 2015.

During this time, Mr. Boey advised that he was not in Canada and he did not provide any home or business address to the College. However, as noted above, he did correspond with the College by e-mail. By stating that he was not in Canada and that he could not make long distance phone calls, it was reasonable for the College to proceed on the basis that e-mail was the only way in which it could contact Mr. Boey.

In the circumstances, it would have been fruitless for the College to again attempt to serve the subsequent Notice of Hearing by registered mail. Further, it is clear from the e-mail correspondence with Mr. Boey in May and June of 2015 that he understood that a hearing would be taking place and that it would take place prior to November 30, 2015. He also understood that he should expect the College to contact him again in September 2015 about reconvening the hearing. If, for whatever reason, Mr. Boey was not going to be able to be contacted at the khevinboey@me.com e-mail address in September 2015, he had an obligation, in accordance with s. 41 of the Regulation, to advise the College accordingly. He did not do so, nor, as noted earlier, did he provide any updated address information.

The underlying purpose of s. 79(6) of the *Health Professions Act* is to ensure that the investigated member is aware of the Hearing before a hearing proceeds in the member's absence. We are satisfied, in the circumstances, that Mr. Boey was aware that a hearing would take place prior to November 30, 2015 and that he was going to be contacted by the College, and was in fact contacted, about the hearing date in September 2015. This is not, as submitted by the College, a circumstance where the member was unaware that a hearing would take place.

The Tribunal agreed Mr. Boey had been given ample opportunities to respond, was well aware of attempts to set a hearing date that he could attend and, as a regulated member, had a responsibility to maintain contact with the College and monitor communications in this regard. The Hearing Tribunal further considered the seriousness of the allegations and agreed in the circumstances that the hearing should

proceed and should not be further delayed by Mr. Boey's failures to respond to the College.

IV. EVIDENCE

Mr. Jardine proceeded to call Mr. Krempien, Complaints Director, as a witness. The Record of Decision, outlining Mr. Krempien's decision to forward the matter to the Hearings Tribunal, was marked as Exhibit 3 - Record of Decision Dated January 16, 2015. This decision was reached after an investigation by Mr. Krempien into the matter.

A document containing the investigation report and relevant evidence from Mr. Krempien's investigation was then entered as Exhibit 4, containing 19 tabs. Mr. Jardine proceeded to take Mr. Krempien through the various documents submitted in Exhibit 4.

Many of the tabs contained supporting documentation in the form of emails, memos, letters and faxes. The details significant to the decision of this Hearing Tribunal were summarized in the investigation report and in Mr. Krempien's testimony.

As some of the testimony refers to a previous hearing, Mr. Krempien summarized it so the tribunal was familiar with its relevance to the current hearing. In the first matter involving Mr. Boey he had been a staff pharmacist at a Shoppers Drug Mart in Rocky Mountain House. Over a period of roughly four months he diverted approximately 10,000 zopiclone tablets and 1,000 benzodiazepines, which he claimed were for personal use. That issue was forwarded to the hearing tribunal, and the hearing tribunal made findings of unprofessional conduct. A number of orders were issued by the hearing tribunal as a result. Among those orders was that Mr. Boey enter into a substance abuse monitoring and support program, to be administered by Canniff & Associates.

Mr. Boey was required to maintain daily contact with the monitoring program, as well as attend group meetings, meet program staff in person when requested, and submit to frequent random drug screening tests.

On November 21, 2014, Mr. Krempien received an e-mail from Mr. Boey (Tab 1) in which Mr. Boey stated he was self-reporting a significant relapse with his substance abuse issue and that he'd been deceiving both Canniff & Associates and his pharmacy licensee about his relapse.

Mr. Krempien e-mailed a response (Tab 2) acknowledging the self-report and requesting additional information. He encouraged Mr. Boey to seek assessment and treatment and recommended he voluntarily cancel his practice permit.

The next day Mr. Boey emailed his request to withdraw from the clinical register and stated he would not practice nor seek employment in a pharmacy. (Tab 3)

On November 24, 2014 Mr. Krempien initiated a complaint of unprofessional conduct against Mr. Boey under s. 56 of the *Health Professions Act* (Tab 4) He appointed himself as investigator (Tab 5) and emailed Linda Hagen, ACP Registration Manager, Mr. Boey's request to be removed from the clinical register (Tab 6).

The same day he spoke with Mr. Boey by phone (Tab 7). In that conversation Mr. Boey confirmed he was not practicing, that he would be meeting the next day with his psychologist at Canniff & Associates and described stressors that led to his relapse, mainly of a social nature.

That day Mr. Krempien also spoke to [REDACTED], Shoppers Drug Mart #313 pharmacy licensee, and former employer of Mr. Boey (Tab 8). He confirmed he had discovered Mr. Boey's diversion of zopiclone, dextroamphetamine and zolpidem. He confronted Mr. Boey who admitted to the diversions, upon which [REDACTED] terminated his employment, on November 21, 2014.

[REDACTED] outlined how Mr. Boey diverted medications through the creation and use of fictitious patient and transaction records, and that this had been going on for a few months.

Finally, he indicated that Mr. Boey was an "awesome" pharmacist and that he'd had no previous concerns with Mr. Boey and that he appeared attentive and motivated when at work.

Mr. Krempien explained that pursuant to the previous hearing tribunal order, Mr. Boey was required to be under direct supervision of another pharmacist for the first six months of his practice. This meant that from approximately January to June of 2014 he was under the direct supervision of a pharmacist at SDM 313.

That day, Mr. Krempien mailed the notice of complaint letter to Mr. Boey, notifying him of the complaint, the investigation and requesting a written response. (Tab 9)

Shortly after he received faxed documentation from [REDACTED], which indicated that Mr. Boey started diverting medication from the pharmacy around April 3, 2014. To conceal his diversion, Mr. Boey made six fictitious patient files, all cash only patients with Ontario addresses and no provincial health numbers.

By evaluating the inventory discrepancies [REDACTED] put forth that Mr. Boey diverted the following from April 3 to November 9, 2014:

Drug	Pill count	Number of fictitious transactions
Zopiclone 7.5mg	6,082	35
Sublinox 5mg	120	3
Sublinox 10mg	860	10
Dextroamphetamine 5mg	120	2

Dextroamphetamine 10mg	60	1
Nitrazepam 5mg	280	2
Total	7,522	53

Tabs 11-13 contain screen shots provided by ██████████ of the fictitious patient files and transaction records created by Mr. Boey. They show that the patient files were indeed fictitious, with incomplete, non-existent or false Ontario addresses and phone numbers. They also show the fictitious electronic prescription transactions Mr. Boey used to conceal his diversion, and that ██████████ used to compile the above totals.

On November 24, 2014, Mr. Krempien also received a copy of a letter sent by Ms. Hagen to Mr. Boey requesting the return of his practice permit and notifying him that he was no longer eligible to practice pharmacy. (Tab 14)

November 25, 2014, Mr. Krempien received a phone call from ██████████, psychologist at Canniff & Associates. She met with Mr. Boey that day to discuss his relapse. Staff there first noticed changes in Mr. Boey's behavior in May 2014 but he denied relapse at the time. In the meeting that day, Mr. Boey admitted to binging on zopiclone, occasionally up to 30 tablets per day. He also admitted to using small amounts of dextroamphetamine and creating false patient profiles and diverting zopiclone from his employer. They then discussed a treatment plan to address his relapse. (Tab 15)

Mr. Krempien added that through the period in which ██████████ and her staff noticed behavioural changes in Mr. Boey, he was still being frequently and randomly screened for zopiclone as well as other medications. Mr. Krempien added that the list of substances screened for is substantial, including prescription and non-prescription substances known to be misused or abused. To Mr. Krempien's knowledge, Mr. Boey never had any positive screens for any substances during the period in question.

He also noted that in his 8 years as complaints director, 24 pharmacists have participated in a monitoring program through Canniff & Associates ordered by the ACP. To his knowledge, there is no previous situation in which the monitoring program has failed to detect substances being used or abused by the individual being monitored.

On November 26, 2014, Mr. Krempien again interviewed ██████████ at SDM 313. ██████████ described how he first developed suspicions that Mr. Boey was diverting medications and further elaborated on his meeting with Mr. Boey on November 21, 2014. ██████████ added that it was his opinion that Mr. Boey had paid for all the medication he diverted, a total he calculated as \$3,571 and that in his opinion it would not have been possible for Mr. Boey to ingest all of the medication he diverted. (Tab 16)

██████████ added neither himself nor the pharmacist directly supervising Mr. Boey ever witnessed any performance concerns, nor were they concerned with or aware of any patient safety or drug error issues. ██████████ indicated to Mr. Krempien that Mr.

Boey presented as very motivated and professional in the pharmacy. [REDACTED] reported to Mr. Krempien that neither he nor the supervising pharmacist had any specific concerns or suspicions about Mr. Boey relapsing. On the contrary, they both spoke highly of the quality of Mr. Boey's pharmacy practice and rated him as a high functioning, caring and clinically focused pharmacist.

On November 27, 2014 Mr. Krempien emailed Mr. Boey a request for him to phone to schedule a meeting (Tab 17) and Mr. Boey did so the same day. He indicated he started the process to enter a residential inpatient substance abuse treatment program in Alberta. Mr. Krempien and Mr. Boey arranged to meet at the ACP office on December 14, 2014 to discuss the issue further. (Tab 18)

During that meeting, Mr. Boey discussed some of the circumstances he believed led to his relapse, his obtaining of legitimate zopiclone prescriptions, which he stated he binged on, and his methods for diverting medications from his employer and concealing the diversions. He described the types, quantities and frequency of diversion events, a description Mr. Krempien noted was consistent with the information provided by [REDACTED].

Mr. Boey indicated he paid cash for all the medications. This was consistent with [REDACTED]'s report as well as records showing Mr. Boey paid cash and that he was the only person at the pharmacy when he did so.

Mr. Boey stated the he ingested all the medications he diverted and that he would time the ingestion of them to ensure he was not incapacitated during his shifts. Mr. Krempien noted that based on the records provided by [REDACTED] and his own calculations, if Mr. Boey had ingested all of the medications he diverted, it would equate to roughly 30 zopiclone tablets per day, 5 zolpidem daily, and 1 each of nitrazepam and dextroamphetamine daily.

Mr. Boey added that he ingested all of the medications he diverted and those he received through legitimate prescriptions. He denied diverting any for non-personal use and denied use of illicit drugs during this period, but did admit to purchasing heroin and ecstasy. He told how he circumvented the random drug testing by Canniff & Associates. Finally, he expressed regret for his actions and noted they were unprofessional and compromised the integrity of the profession and indicated he was seeking professional assistance. (Tab 19)

Mr. Krempien's opinion was that Mr. Boey's statement may not have been truthful with regards to his ingestion of medication. He based this position on the calculated quantities of zopiclone diverted. For Mr. Boey to skip some days in order to avoid screening, in order to average 30 tablets per day, he would have had to ingest double that for every day he skipped. Mr. Krempien added that if this were in fact true, he did not see how it would be reasonable to be a high functioning pharmacist.

Mr. Krempien further expressed his opinion that even if Mr. Boey had timed ingestion of zopiclone to avoid detection, the odds were very low that such a quantity

of zopiclone could be ingested and then not be detected by sophisticated detection methods the next day.

██████████ of Canniff & Associates provided information to Mr. Krempien about their testing methods. Her opinion was that someone would not be able to avoid detection of that quantity of a tested substance.

Mr. Krempien's last contact with Mr. Boey was an e-mail on December 20, 2014. In that e-mail Mr. Boey stated he was going to be starting a residential in-patient substance abuse treatment program at a facility in Ontario. In response to a question from the Hearing Tribunal, Mr. Krempien added that although the facility in question appeared to be a legitimate facility, there was no evidence at time of hearing that Mr. Boey ever did in fact register with that facility.

V. SUBMISSIONS

Alberta College of Pharmacists Submissions

Mr. Jardine submitted that there are two things that must be proven on a balance of probabilities in this case. The College must prove that it is more probable than not that the allegations made against Mr. Boey in the Notice of Hearing are true and that those allegations constitute unprofessional conduct.

Mr. Jardine then referred the tribunal to the Notice of Hearing.

With respect to the first allegation (see Allegation 1 above), regarding the medications diverted, including specific quantities, Mr. Jardine submitted that this was proven based on:

- ██████████'s documentation showing quantities diverted,
- Mr. Boey's admission that those records and quantities represented the medications he diverted, and
- Mr. Boey's admission to Mr. Krempien that he diverted the stated quantities of the stated medications.

With respect to the second allegation (see Allegation 2 above), regarding abuse of position of trust by creating false records to facilitate and conceal diversion, Mr. Jardine submitted that the allegation was proven based on:

- Documentation from ██████████ showing factitious patient profiles and prescription records, and
- Admission by Mr. Boey that those patient profiles and prescription records were created by him and that they were factitious.

Mr. Jardine added that this concealment of diversion only stopped after Mr. Boey's employer discovered the diversions and Mr. Boey reported his diversion to Mr.

Krempien on the advice of [REDACTED], and when on that same day, [REDACTED] terminated Mr. Boey's employment.

Mr. Jardine addressed Allegations 3 and 4 together. With respect to Allegation 3, that Mr. Boey had practiced while incapacitated, thereby endangering the public, Mr. Jardine submitted that, while there was no direct evidence in front of the Hearing Tribunal with respect to his allegation, the allegation was proven nevertheless because:

- Mr. Boey admitted to Mr. Krempien that he had personally consumed the entire quantity of zopiclone he admitted to diverting;
- He further admitted that he took 30 and sometimes 60 tablets a day of zopiclone; and
- That if his two admissions in this regard are taken as true, then he consumed what equates to a months' worth of normal usage of zopiclone in a single day, and then went to work, a situation that would put patients at risk.

With regard to Allegation 4, that Mr. Boey diverted medications for beyond his personal use, Mr. Jardine submitted that although Mr. Boey denied this was true and although there was no direct evidence on this allegation in front of the Hearing Tribunal, on the balance of probabilities the allegation was proven because:

- The large numbers of medication diverted, by Mr. Boey's own admission, were diverted in the quantities and time period outlined in Allegation 1;
- During that time period Mr. Boey was being frequently and randomly screened for zopiclone and other substances by Canniff & Associates;
- None of the aforementioned drug screenings came back positive; and
- There is no evidence of Mr. Boey being intoxicated or incapacitated during his employment. [REDACTED] stated to Mr. Krempien during the investigation that neither he nor the pharmacist who directly supervised Mr. Boey saw any evidence of intoxication or incapacity.

Mr. Jardine noted that the College recognizes that some of the medications may have been for personal use, as Mr. Boey had a couple of prescriptions of his own for zopiclone that he obtained legitimately from his family physician. Instead, he emphasized, the College is submitting that, based on the sheer quantities of the medications diverted, it defies belief that all of the medications diverted were used for personal use only.

Mr. Jardine added further that this pattern of behavior was very similar to the behavior that led to the previous hearing. In this case, Mr. Boey finished his suspension from the previous hearing, entered into a monitoring program, started working at a pharmacy, and within four months the diversions started again at very significant quantities. The difference is that in this case there was no evidence whatsoever of impairment, whereas there was in the incidents addressed in the previous hearing.

Finally, with regards to Allegations 3 and 4, Mr. Jardine recognized that if the Hearing Tribunal accepts Allegation 4 as proven, then it is quite possible that the College has not proven Allegation 3.

With regards to Allegation 5, that Mr. Boey actively circumvented an abuse monitoring program ordered by a previous hearing tribunal decision, Mr. Jardine submitted that it was proven based on:

- Mr. Boey's admission that he circumvented the monitoring program;
- Mr. Boey's admission that he diverted the medications and quantities stated in Allegation 1, which is itself a breach of the monitoring program; and
- Mr. Boey's admission that he obtained zopiclone through legitimate means from his family physician but did not inform Canniff & Associates of this, also a breach of the monitoring agreement.

The College further submitted that the evidence shows that not only did Mr. Boey divert medications; he then used his position of trust and authority as a pharmacist to falsify pharmacy records to conceal his actions and prolong his ability to divert medications. His actions placed patients at risk and have the potential to decrease public trust in the profession.

Mr. Jardine submitted that Mr. Boey's alleged conduct, if proven, constitutes unprofessional conduct pursuant to the provisions of section 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii), 1(1)(pp)(viii) and 1(1)(pp)(xii) and section 82(3)(a) of the *Health Professions Act*. These sections define unprofessional conduct, whether or not that conduct is disgraceful or dishonourable.

1(1)(pp)(i) states that unprofessional conduct is "displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services". Mr. Jardine submitted that although Mr. Boey did not appear to lack knowledge or skill, his conduct, particularly because it occurred right after a suspension for similar conduct, showed a substantial lack of judgment.

1(1)(pp)(ii) states that unprofessional conduct is "contravention of [the *Health Professions Act*], a code of ethics or standards of practice". Mr. Jardine states that the allegations, if proven, show that Mr. Boey, through his conduct, contravened the ACP Code of Ethics and the Standards of Practice for Pharmacists and Pharmacy Technicians.

Specifically, Mr. Boey's conduct contravened in the ACP Code of Ethics:

Principle 1: Hold the well-being of each patient to be my primary consideration

Mr. Jardine submitted that if the tribunal accepts that Mr. Boey was in fact consuming 30 or more zopiclone tablets per day while practicing pharmacy, it stands to reason that this would represent a failure to hold the well-being of each patient in primary regard.

Principle 10: Act with honesty and integrity

The College submitted that diverting medications from your employer and concealing that diversion would obviously represent a lack of honesty and integrity. Similarly, creating fictitious patient records is a clear breach of the obligation to act with honesty and integrity.

Principle 11: Demonstrate responsibility for self and other health professionals.

To uphold this principle, the Code of Ethics states that pharmacists should seek help for personal problems that may affect their provision of services and that they practice only when fit and competent. Mr. Jardine's submission was that Mr. Boey's return to diversion of medications while under a monitoring program and his concealment of that diversion represents a breach of this principle in that not only did Mr. Boey not seek help from the monitoring program when he relapsed, but he actively attempted to keep his relapse hidden.

Mr. Jardine stated that Mr. Boey also contravened section 1 and subsections 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians. These components of the standard state that pharmacists must practice in accordance with the law. Mr. Jardine submitted that diverting medications and falsifying records is clearly a breach of that standard.

1(1)(pp)(iii) of the *Health Professions Act* states that unprofessional conduct is "contravention of another enactment that applies to the profession". Mr. Jardine submitted that Mr. Boey's conduct contravened:

Sections 31(2)(a) and 38 of the *Pharmacy and Drug Act*

These sections state that schedule 1 drugs, like zopiclone, may only be dispensed pursuant to a prescription and that contravention of that requirement is an offence.

Section 4(1) of the *Controlled Drugs and Substances Act*

This section states that except as authorized under certain regulations, no person shall possess a substance included in Schedules I, II or III of the Act. Mr. Boey admitted to purchasing heroin and ecstasy, both part of those schedules. Amphetamines are also part of those schedules and Mr. Boey admitted to diverting dextroamphetamine.

Section 51(1) of the *Benzodiazepines and Other Targeted Substances Regulations*

This section states that benzodiazepines may only be provided by a pharmacist pursuant to a prescription. Mr. Boey admitted to diverting nitrazepam, a benzodiazepine.

Section C.01.041(1) of the Food and Drug Regulations

This regulation states that no person shall sell a prescription drug unless it is pursuant to a prescription they received. Mr. Boey admitted to selling to himself, via cash payments he made when alone in the pharmacy, all of the medications and quantities stated in Allegation 1, not pursuant to a prescription.

Section 31(1) of the Narcotic Control Regulations

This regulation states that no pharmacist shall sell or provide narcotics. Mr. Boey admitted to purchasing heroin and MDMA for personal use. Mr. Jardine acknowledged that no evidence was put forth that Mr. Boey acted as a seller of these drugs at any point.

1(1)(pp)(viii) of the *Health Professions Act* states that unprofessional conduct is “contravening an order under Part 4, conditions imposed on a practice permit”. Mr. Jardine submitted that since Mr. Boey had been ordered by a previous hearing tribunal decision to comply with an abuse monitoring and support program, his alleged subsequent non-compliance with that program constituted contravention of this section.

1(1)(pp)(xii) of the *Health Professions Act* defines unprofessional conduct as “conduct that harms the integrity of the regulated profession. Mr. Jardine submitted that it is fairly clear, if the allegations are accepted as submitted, that Mr. Boey’s conduct harms the integrity of the profession of pharmacy.

Before concluding his submissions, Mr. Jardine asked that once the tribunal arrived at a decision, that Mr. Boey be given the opportunity to view the decision in writing, as well as the College’s submissions on sanctions. At that point, Mr. Boey would be given the opportunity to present his own submissions if he wished.

Investigated Members Submissions

There were no submissions from the investigated member nor from counsel on his behalf, as neither were in attendance.

VI. FINDINGS

The hearing tribunal carefully considered the evidence presented during the hearing and the submissions from the College. The hearing tribunal makes the following findings:

With respect to the first allegation that during the period from April 3, 2014 to November 9, 2014 Mr. Boey:

1. Diverted medications from Shoppers Drug Mart 313 in Edmonton on 53 separate occasions including Zopiclone 7.5mg, Sublinox 5mg and 10mg, Dexedrine 5mg and 10mg and Nitrazepam 5mg in the approximate amounts of: 6,082 Zopiclone 7.5mg tablets; 120 Sublinox 5mg tablets; 860 Sublinox 10mg tablets; 120 Dexedrine 5mg

tablets; 60 Dexedrine 10mg tablets; and 280 Nitrazepam 5mg tablets for his own personal use and possibly for other undetermined uses

The hearing tribunal finds that the allegation proven based on the following reasons:

- [REDACTED] provided detailed transaction records for each dispensing event, which included the drug name, strength and quantity dispensed, as well as the fictitious patient names to which they were dispensed;
- Mr. Boey admitted to the complaints director that he personally diverted the specific drugs, strengths and quantities shown in the records provided by [REDACTED], that he personally did so on the number of occasions shown in the records, and that he purposefully created the fictitious patient profiles shown in the records in order to conceal the diversion; and
- Mr. Boey also admitted to Mr. Krempien that he paid full price in cash for the medications he diverted so that inventory and accounting discrepancies were less likely to be detected.

With respect to the second allegation that Mr. Boey:

2. Abused his position of trust by creating fictitious patient profiles and prescription transactions to facilitate and conceal his diversion of medications

The hearing tribunal finds the allegation proven based on the following reasons:

- [REDACTED] provided detailed records showing the fictitious patient profiles and prescription records;
- The information in the profiles was clearly fabricated, incomplete, and not based on actual demographic information;
- The prescription records were clearly for those fictitious patients;
- Mr. Boey admitted to Mr. Krempien that all of the records provided by [REDACTED] matched with the fictitious patient profiles and prescription records that he created solely for the purpose of facilitating and concealing his diversion of medications; and
- Mr. Boey also admitted to Mr. Krempien that he paid cash for those medications in order to finalize the prescription transactions and avoid inventory and accounting discrepancies.

With respect to the third allegation that Mr. Boey:

3. Practiced while incapacitated thereby creating an environment that endangered the public with his practice by using excessive quantities of zopiclone before and during shifts when he customarily worked as a pharmacist.

The hearing tribunal did not feel on the balance of probabilities that there was sufficient evidence to determine that Mr. Boey was incapacitated while practicing nor that he created an environment which endangered the public. This is based on the following reasons:

- Mr. Boey testified that he personally consumed all of the medication he diverted.

- However, [REDACTED] and the pharmacist who directly supervised Mr. Boey for the first six months of his reinstatement on the clinical register, a period that included his admitted diversions, stated that Mr. Boey never appeared intoxicated nor incapacitated at work. On the contrary, they stated that he was an excellent pharmacist with a high standard of clinical practice.
- Furthermore, Canniff & Associates has an established record of monitoring professionals with drug abuse and misuse issues. It was the professional view of [REDACTED] and Mr. Krempien that it was incredibly unlikely that Mr. Boey could have consumed the quantities of medication he claimed to have consumed and still have negative drug screening tests. Mr. Krempien advised the Hearing Tribunal that the College has used Caniff & Associates many times, perhaps 14-15 times previously, and that he has never encountered a time where the screening system has been “beat”.
- The collective clinical experience of the pharmacist members of the hearing tribunal was consistent with the evidence offered by Mr. Krempien that such quantities of zopiclone could not be consumed daily by an individual and allow continued functioning that would appear normal to close observers like co-workers and supervisors.
- Based on the information Mr. Krempien obtained from [REDACTED], his staff pharmacist who directly supervised Mr. Boey, and [REDACTED], and in considering the evidence provided by Mr. Krempien in addition to the confirmed absence of any positive drug screening tests, the Hearing Tribunal was not persuaded that Mr. Boey was consuming all the zopiclone he diverted and was not satisfied that that he practiced while incapacitated.

With respect to the fourth allegation that Mr. Boey:

4. Diverted medications for beyond his personal use

The hearing tribunal finds the allegation is proven based on the following reasons:

- Essentially the same reasons as laid out for our inability to accept Allegation 3 as written, the tribunal concludes that it is more likely than not that Mr. Boey diverted medications for beyond his personal use.
- [REDACTED] and Mr. Boey’s supervising pharmacist reported he was never incapacitated when they witnessed him working. Furthermore, there were no complaints from patients brought forward as evidence nor were there any instances of drug errors.
- Mr. Boey claimed to have consumed roughly 30 tablets of zopiclone every day over the course of many months, yet the medication never appeared in drug screenings done by sophisticated testing performed at the provincial laboratory pursuant to orders from an organization that specializes in matter professionals in substance abuse monitoring programs. These drug screenings were not only frequent for many months, but they were also random. It therefore stretches the boundaries of reason to accept that Mr. Boey could purposefully withhold from ingesting or “time” the medication in order to avoid detection from the drug screening tests. Likewise, it defies reason that Mr. Boey could have been consuming the quantities he suggests he was consuming and at the same time avoid detection in the drug screens.

- Since it is more likely than not that Mr. Boey did not personally ingest the quantities of medications to which he admitted diverting, and since Mr. Boey also admitted to Mr. Krempien that none of those medications remained in his possession or in his place of residence, the hearing tribunal finds that it is more likely than not that some of the medications he diverted were diverted beyond his personal use.
- His personal use simply cannot account for the vast quantities of medications he admitted to diverting if, at the same time there were never any positive drug screening tests detecting the drug in his system and those working in the same workplace never observed him as incapacitated or intoxicated.
- The Hearing Tribunal acknowledges that there is no direct evidence in front of it to demonstrate that Mr. Boey diverted medications for beyond his personal use. However, based on the evidence described above, the Hearing Tribunal is prepared to draw an inference that, in these circumstances, the medications diverted by Mr. Boey went beyond personal use.

With respect to the fifth allegation that Mr. Boey:

5. Actively circumvented the abuse monitoring and support provisions he was receiving during this period as ordered by a previous hearing tribunal decision and thereby breached an order of a hearing tribunal made under section 82 of the *Health Professions Act* regarding the establishment of and compliance with a Recovery Maintenance/Relapse Prevention Program

The hearing tribunal finds the allegation proven based on the following reasons:

- In an e-mail to Mr. Krempien dated November 21, 2014 and during his discussions with Mr. Krempien on December 4, 2014, Mr. Boey admitted to Mr. Krempien that he actively circumvented the monitoring and support provisions.
- Mr. Boey started diverting medications, by his own admission to Mr. Krempien, shortly after finishing the suspension he had received from his previous hearing tribunal decision, a hearing tribunal that addressed diversions similar to the current matter.
- Mr. Boey took extraordinary effort, through the creation of fictitious patient profiles and prescription records, as well as paying for the prescriptions in cash, to avoid detection of his diversion of medications.
- Mr. Boey obtained zopiclone legitimately through a prescription from his family physician. However, he admitted to not informing Canniff & Associates of this, which itself is a circumvention of the abuse monitoring provisions. As zopiclone was the primary medication of diversion in his previous hearing, it was incumbent on Mr. Boey to notify his monitoring program of any use of this substance, whether it be legitimate or otherwise.
- Mr. Boey also breached the previous hearing tribunal order by diverting medications while still under direct supervision by another pharmacist, a condition of his practice ordered by the previous hearing tribunal decision.

With respect to the further allegations that Mr. Boey:

- a. Not only diverted medications, but then used his position of trust and authority as a pharmacist to falsify pharmacy records in an attempt to conceal his actions and prolong his ability to divert medications without detection

The Hearing Tribunal finds the allegation proven as written, for the same reasons we found Allegations 1 and 2 to be proven.

- b. His actions placed patients at risk and have the potential to decrease the public's trust in the profession

The Hearing Tribunal finds the allegation partially proven. The tribunal did not feel, for the reasons outlined above regarding the findings on Allegation 3, that there was sufficient evidence that Mr. Boey's actions placed patients at risk. There was no evidence of incapacitation while practicing, nor was there any evidence brought forth of patient complaints or drug errors.

However, the tribunal finds it well established that Mr. Boey abused his position of trust and authority in order to divert controlled substances, violated enactments under which he was regulated as a practicing pharmacist, wilfully contravened an order of his professional licensing body, diverted medications from his employer and concealed diversions from his employer and a professional monitoring program. All of these actions, if brought to the public's attention, would, in the tribunal's opinion, most certainly decrease the public's trust in the profession.

Based on the tribunal's findings with regards to Mr. Boey's conduct, we find that his conduct in these matters:

- a. Undermined the integrity of the profession,
- b. Is contrary to accepted pharmacy practice,
- c. Involved multiple diversions of medications over an extended period from April 3 to November 9, 2014, and
- d. Ended only when his employer discovered the diversions and terminated his employment.

The Hearing Tribunal finds that the above proven allegations constitute unprofessional conduct.

The tribunal agrees with the College's submission that Mr. Boey's conduct undermined the integrity of the profession and is contrary to accepted pharmacy practice. The public must be able to trust that pharmacists not only act in the best interest of patients but that they do so within the confines of professional statutes and regulations that govern the profession. Mr. Boey not only diverted controlled medications, he abused his position of authority by altering records to conceal this activity. These actions surely diminish the standing of the profession in the eyes of the public. Furthermore, Mr. Boey's actions represent a direct and willful

contravention of an order given to him and conditions placed on his practice by the profession.

The public bases their trust in the pharmacy profession on the assumption that it will regulate itself in the best interest of patients and the safety of the public. Mr. Boey's failure to comply with orders stemming from the profession's self-regulation calls that assumption into question, thereby threatening the public's trust in the profession.

The tribunal reviewed the submissions made by the college and finds that, based on the definitions set forth in section 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii), 1(1)(pp)(viii) and 1(1)(pp)(xii) and section 82(3)(a) of the *Health Professions Act* Mr. Boey's actions constitute unprofessional conduct.

Specifically:

Mr. Boey's actions clearly demonstrate a profound lack of judgment, particularly in light of them occurring while under an order of a previous hearing tribunal and in a matter similar to that which led to the initial hearing. This meets the definition of unprofessional conduct as set out in section 1(1)(pp)(i) of the *Health Professions Act*.

He clearly violated the ACP Code of Ethics, particularly Principles 10 and 11. He most certainly did not act with honesty and integrity, in that he wilfully deceived his employer and the monitoring program staff at Canniff & Associates. He also did not demonstrate responsibility for self as outlined in Principle 11. Instead of asking for help when he relapsed, he went to great lengths to avoid help and to conceal his relapse from those who could provide it. Indeed, he only admitted the relapse once it was discovered by his employer and only advised the College of the relapse when he was terminated by his employer.

The tribunal did not agree however that Mr. Boey violated Principle 1 of the Code of Ethics, as there was insufficient evidence that he practiced while incapacitated and, that he did not hold the well-being of each patient as his primary consideration. On the contrary, there is testimony from [REDACTED] that Mr. Boey provided a high level of clinical practice to his patients.

In contravening multiple statutes through his diversion of prescription medications and falsification of records, Mr. Boey also violated Section 1 and Subsections 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians, which state that pharmacists must practice in accordance with the law.

His violations of the ACP Code of Ethics and Standards of Practice meet the definition of unprofessional conduct under section 1(1)(pp)(ii) of the *Health Professions Act*.

Mr. Boey's actions also clearly violated other enactments that apply to the profession, which meets the definition of unprofessional conduct under section 1(1)(pp)(iii) of the *Health Professions Act*. In particular, he violated all but one of the enactments used as examples by Mr. Jardine:

Sections 31(2)(a) and 38 of the *Pharmacy and Drug Act*

Through his diversion of prescription medications, he contravened this requirement to obtain prescription medications only pursuant to a prescription from an authorized prescriber.

Section 4(1) of the *Controlled Drugs and Substances Act*

Mr. Boey met none of the criteria set out in this Act for authorization to possess when he diverted dextroamphetamine, nor when he purchased heroin and ecstasy; both actions to which he admitted to Mr. Krempien. This section states that no one can possess these medications unless authorized.

Section 51(1) of the *Benzodiazepines and Other Targeted Substances Regulations*

This states that benzodiazepines may only be provided by a pharmacist pursuant to a prescription. Mr. Boey admitted to diverting nitrazepam, a benzodiazepine. This is clearly a violation of the regulations.

Section C.01.041(1) of the *Food and Drug Regulations*

This states that no person shall sell a prescription drug unless it is pursuant to a prescription he/she received. Mr. Boey admitted to selling to himself, via cash payments he made when alone in the pharmacy, all of the medications and quantities stated in Allegation 1, not pursuant to a prescription.

Section 31(1) of the *Narcotic Control Regulations* was put forward by Mr. Jardine as an example of an enactment violated by Mr. Boey. This enactment states that no pharmacist shall sell or provide narcotics. Although Mr. Boey admitted to purchasing heroin and MDMA for personal use, Mr. Jardine presented no evidence beyond inference that Mr. Boey at any point sold these drugs. As such, the Hearing Tribunal cannot accept, based on the available evidence, that this enactment was violated, and therefore do not accept that it is an example of unprofessional conduct in this case.

Section 1(1)(pp)(viii) of the *Health Professions Act* states that unprofessional conduct is “contravening an order under Part 4, conditions imposed on a practice permit”. Mr. Boey was ordered by a previous hearing tribunal decision to comply with a substance abuse monitoring and support program. His willful contravention of that order constitutes unprofessional conduct as defined by this section.

Section 1(1)(pp)(xii) of the *Health Professions Act* defines unprofessional conduct as “conduct that harms the integrity of the regulated profession”. As stated previously, it is obvious to the Hearing Tribunal that Mr. Boey’s proven actions constitute conduct that harms the integrity of the profession of pharmacy. As such, his conduct constitutes unprofessional conduct by this definition.

VI. ORDERS

Having made its findings on unprofessional conduct, the Hearing Tribunal must now consider the appropriate orders for penalty. The Hearing Tribunal directs that the College provide its written submissions on penalty to the Hearings Director within fourteen (14) days of receipt of these written reasons of the Hearing Tribunal. The Hearings Director will then be responsible for providing copies of the College's written submissions on penalty to the Hearing Tribunal and Mr. Boey. Mr. Boey will then have fourteen (14) days after being provided with the College's submissions on penalty to provide his written submissions on penalty to the Hearings Director. The Hearings Director will then provide copies of Mr. Boey's written submissions on penalty to the Hearing Tribunal and the College. If written submissions on penalty are received from Mr. Boey, the College will have five (5) days from receipt of Mr. Boey's submissions on penalty to provide any reply submission to the Hearings Director. The Hearings Director will then provide a copy of any reply submission to both the Hearing Tribunal and Mr. Boey.

While recognizing the previous difficulties that the College has encountered in contacting Mr. Boey, the Hearing Tribunal requests that the Hearings Director make reasonable efforts to again contact Mr. Boey. If the Hearings Director is not able to contact Mr. Boey directly or if no response is received from Mr. Boey within seven (7) days as a result of the reasonable efforts made to contact him then the Hearings Director may send the College's submissions on penalty and the request for Mr. Boey's submissions on penalty to Mr. Boey at the khevinboey@me.com e-mail address. Mr. Boey will then have fourteen (14) days from the date of that e-mail being sent to provide the Hearings Director with any submissions on penalty. If no submissions on penalty are received from Mr. Boey within the fourteen (14) days provided, the Hearing Tribunal will proceed with considering and determining the question of appropriate orders for penalty.

The Hearing Tribunal reserves jurisdiction over the question of the appropriate orders for penalty as well as over any procedural questions (for example, timelines) arising with respect to the submissions on penalty.

Signed on behalf of the hearing tribunal by
the Chair

Dated:
March 9, 2016

Per:
[Tony Nickonchuk]
Tony Nickonchuk, B. Pharm.