

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

RAVI CHAWLA

Registration number: 12047

DECISION OF THE HEARING TRIBUNAL

March 22, 2022

I. INTRODUCTION

On February 10, 2022, the Hearing Tribunal held a hearing into the conduct of Ravi Chawla. In attendance on behalf of the Hearing Tribunal were Juane Priest, public member, Jim Lees, public member, Anil Goorachurn, pharmacist, and Mary Gunther, pharmacist, and chair.

The hearing took place via videoconference. The hearing was held under the terms of Part 4 of the *Health Professions Act* (“HPA”).

In attendance at the hearing were: Mr. James Krempien, Complaints Director for the Alberta College of Pharmacy (the “College”), Ms. Annabritt Chisholm, legal counsel representing the Complaints Director, Ravi Chawla, Investigated Member, and Mr. Shawn Sipma, legal counsel representing Mr. Chawla. Mr. Jason Kully was also in attendance, acting as independent counsel for the Hearing Tribunal.

Margaret Morley, Hearings Director, was also present. Ms. Morley did not participate in the hearing but was available to assist in administering the virtual hearing.

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 allegations with respect to Mr. Chawla, as set out in the Notice of Hearing:

IT IS ALLEGED THAT, between July 31, 2020, and October 30, 2020, while you were both a registered Alberta pharmacist and the licensee of Rx HealthMed City Centre Pharmacy (ACP License #3533), you:

1. Used your authority as a custodian of health information to access the personal health information of ■ on Netcare without an authorized purpose for doing so, the particulars of which included accesses to ■’s Netcare records on:
 - a. July 31, 2020;
 - b. August 11, 2020;
 - c. September 7, 2020;
 - d. October 30, 2020.

IT IS ALLEGED THAT your conduct in these matters:

- a. Breached your statutory and regulatory obligations to the Alberta College of Pharmacy as an Alberta pharmacist and a pharmacy licensee,
- b. Undermined the integrity of the profession,
- c. Decreased the public’s trust in the profession, and
- d. Failed to exercise the professional and ethical judgment expected and required of an Alberta pharmacist and a pharmacy licensee.

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

- Standard 1 and Sub-sections 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians,
- Principles 4(4) and 10(1) of the ACP Code of Ethics,
- Section 25, 27(1) and 107(2)(a) and (b) of the *Health Information Act*,

and that your 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)(ii), 1(1)(pp)(iii), and 1(1)(pp)(xii) of the *Health Professions Act*.

III. EVIDENCE AND SUBMISSIONS

The hearing proceeded with an Agreed Statement of Facts and an Admission of Unprofessional Conduct on the part of Mr. Chawla. No witnesses were called to testify.

The following exhibits were entered by agreement of the parties:

Exhibit 1: Agreed Exhibit Book, which included the Notice of Hearing, an Admission of Unprofessional Conduct, and an Agreed Statement of Facts.

Agreed Statement of Facts

The Agreed Statement of Facts submitted contains the following agreed facts:

1. At all relevant times, Mr. Chawla was a registered member of the College on the clinical pharmacist register and practiced as a pharmacist and was the owner, proprietor and licensee of Rx HealthMed City Centre Pharmacy. Mr. Chawla was first registered as a clinical pharmacist with the College on March 5, 2014. Mr. Chawla became the licensee of the pharmacy on April 1, 2018.
2. On May 17, 2021, Mr. Krempien, the Complaints Director of the College, received a complaint against Mr. Chawla from ■■■. The complaint outlines:
 - a. ■■■ was a former patient of the Pharmacy. ■■■'s relationship with Mr. Chawla and the Pharmacy terminated on or around July 19, 2020.
 - b. Alberta Netcare Access Disclosure logs capturing the time period from June 1, 2020, to February 4, 2021, indicate Mr. Chawla accessed ■■■'s electronic health care record on July 31, 2020, August 11, 2020, September 7, 2020, and October 30, 2020.
 - c. ■■■ had not received a professional service from Mr. Chawla or visited the pharmacy since July 19, 2020.

3. Mr. Krempien referred this matter to an investigation and appointed himself, Ms. Jennifer Mosher, Ms. Ashley Young and Mr. Brad Willsey as investigators. Mr. Krempien's review of the investigation report prepared by Mr. Willsey resulted in his determination that this matter must be referred to a hearing.
4. ■ was a patient of the pharmacy prior to July 19, 2020.
5. There are no records to confirm that ■ asked Mr. Chawla for advice or attended at the pharmacy for professional or pharmacy services since July 19, 2020, including for the transferring of any remaining prescription refills to another pharmacy.
6. On June 22, 2021, ■ stated to the investigator that ■ finds it uncomfortable to visit the doctor because ■ is concerned that any new health information uploaded to the Netcare records will be accessed by Mr. Chawla.
7. Mr. Chawla used Netcare to access and view the personal health information of ■ without an authorized purpose for doing so on:
 - a. July 31, 2020;
 - b. August 11, 2020;
 - c. September 7, 2020;
 - d. October 30, 2020.
8. Mr. Chawla did not create any patient records to correspond with his accesses to ■'s personal health information on Netcare on July 31, 2020; August 11, 2020; September 8, 2020 or October 30, 2020.
9. On July 8, 2021, Alberta Health provided Mr. Krempien with a redacted Netcare Audit Log and Medication List for ■ for the period of January 1, 2019, to June 23, 2021, which confirmed that Mr. Chawla accessed ■'s Netcare profile on dates including:
 - a. July 31, 2020;
 - b. August 11, 2020;
 - c. September 7, 2020;
 - d. October 30, 2020.
10. The Medication List provided by Alberta Health on July 8, 2021, also indicated that no prescriptions were dispensed to ■ by the pharmacy between July 19, 2020, and June 23, 2021.
11. The College investigation found no evidence that Mr. Chawla inappropriately disclosed ■'s health information to another party.

12. Mr. Chawla cooperated with the investigation in this matter and in the development of this Agreed Statement of Facts.

13. Mr. Chawla has no prior findings of unprofessional conduct or matters referred to a hearing tribunal.

Admission of Unprofessional Conduct:

In the Admission of Unprofessional Conduct, Mr. Chawla admitted the allegation set out in the Notice of Hearing.

Mr. Chawla agreed and acknowledged that his conduct breached his statutory and regulatory obligations to the College as an Alberta pharmacist and a pharmacy licensee, undermined the integrity of the profession, decreased the public's trust in the profession, and that he failed to exercise the professional and ethical judgment expected and required of an Alberta pharmacist and a pharmacy licensee.

Mr. Chawla further agreed and acknowledged that his conduct breached Standard 1 and Subsections 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians; Principles 4(4) and 10(1) of the College's Code of Ethics; and Sections 25, 27(1) and 107(2)(a) and (b) of the *Health Information Act*.

Mr. Chawla admitted that his conduct constitutes "unprofessional conduct" as defined in Sections 1(1)(pp)(ii), 1(1)(pp)(iii) and 1(1)(pp)(xii) of the HPA.

Submissions

Ms. Chisholm made submissions on behalf of the College.

Ms. Chisolm advised the allegation outlined four particular instances between July 31 and October 30, 2020 when Mr. Chawla used his authority as a custodian of health information for Albertans to access the person health information of an individual on Netcare without an authorized purpose.

Ms. Chisolm stated the Tribunal's first task was to determine whether the allegations in the Notice of Hearing had been proven on a balance of probabilities, and if so, the second task was to determine whether the proven allegations constituted unprofessional conduct under the HPA. A third task of determining appropriate sanctions would only arise if the allegations were found to be proven and found to be unprofessional conduct. Ms. Chisolm submitted the Tribunal should have the necessary evidence to find the allegations were proven and amounted to unprofessional conduct.

Ms. Chisholm reviewed the Admission of Unprofessional Conduct. Ms. Chisholm advised Mr. Chawla had acknowledged and admitted to the allegation found in the Notice of Hearing in the Admission of Unprofessional Conduct. She stated that Mr. Chawla acknowledged his conduct breached his statutory and regulatory obligations, undermined the integrity of the profession, decreased the public's trust in the profession, and failed to exercise the professional and ethical judgment expected and required of a pharmacist and licensee. She

added that Mr. Chawla acknowledged his conduct breached the Standards of Practice for Pharmacists and Pharmacy Technicians, the College's Code of Ethics, and the *Health Information Act*. Ms. Chisholm advised Mr. Chawla acknowledged his conduct was unprofessional conduct.

Ms. Chisholm then reviewed the Agreed Statement of Facts, including the attached exhibits. She advised the alleged conduct came to the attention of the Complaints Director on May 17, 2021 when he received a complaint from ■ which included a copy of an Alberta Netcare access disclosure log list which sets out who accessed ■'s electronic health record between June 1, 2020 and January 28, 2021. The complaint stated that ■ was a former patient of the pharmacy whose relationship with Mr. Chawla and the pharmacy terminated on or around July 19, 2020. Despite this, the information in the complaint indicated that Mr. Chawla accessed ■'s records on four occasions after July 19, 2020. The investigation determined there were no records to indicate ■ asked Mr. Chawla for advice or attended the pharmacy for professional or pharmacy services after July 19, 2020, including no requests to transfer remaining prescription refills to another pharmacy. During the investigation, ■ stated ■ found it uncomfortable to visit ■'s doctor because ■ was concerned that any new health information uploaded to the Netcare records would be accessed by Mr. Chawla. Ms. Chisholm stated that investigation and records confirmed Mr. Chawla accessed ■'s Netcare profile on the four identified occasions without an authorized purpose and that he did not create any patient records for the times he accessed ■'s personal health information. Ms. Chisholm advised that there was no evidence Mr. Chawla inappropriately disclosed ■'s health information to another party.

In closing, Ms. Chisholm submitted that the Hearing Tribunal had more than sufficient information to make findings for the allegation based on the Admission of Unprofessional Conduct, the Agreed Statement of Facts, and the investigation records of the Complaints Director. She submitted pharmacists are trusted health care professionals and cannot be seen to access health information without an authorized purpose. She submitted Mr. Chawla's failure to uphold this requirement contravened the Code of Ethics, the Standards of Practice, and the *Health Information Act*. In addition, the conduct harmed the integrity of the profession and should be found to be unprofessional conduct.

Mr. Sipma stated that he agreed and echoed Ms. Chisholm's submissions that the facts and admissions were sufficient to allow the Tribunal to determine the facts and conclude they amounted to unprofessional conduct. He emphasized that Mr. Chawla had cooperated with the complaint investigation and agreed to the admissions so as to avoid a protracted contested hearing.

IV. FINDINGS

The Hearing Tribunal accepted Mr. Chawla's admission of unprofessional conduct and concluded the allegations were proven on a balance of probabilities and that the conduct constituted unprofessional conduct as defined in the HPA.

In determining that the allegations were proven, and that Mr. Chawla's admission should be accepted, the Hearing Tribunal carefully considered the Agreed Statement of Facts entered into by the parties, as well as the Admission of Unprofessional Conduct.

The reasons for the Hearing Tribunal's findings that the allegations in the Notice of Hearing are factually proven on a balance of probabilities are as follows.

The agreed facts and evidence demonstrate that Mr. Chawla used his authority as a custodian of health information to access the personal health information of ■ on Netcare without an authorized purpose for doing so on July 31, August 11, September 7, and October 30, 2020.

Mr. Chawla admitted that he accessed ■'s personal health information via Netcare on these dates and that he did so without an authorized purpose. The Hearing Tribunal accepts this admission. In addition, the agreed facts demonstrate ■ was provided with an Alberta Netcare Access Disclosure log that showed Mr. Chawla accessed ■'s electronic health care record on July 31, August 11, September 7, and October 30, 2020. The Tribunal notes that the Complaints Director obtained a separate Netcare Audit Log and Medication List for ■ which confirmed that Mr. Chawla accessed ■'s Netcare profile on these dates. This list also confirmed that no prescriptions were dispensed by the pharmacy to ■ between July 19, 2020 and June 23, 2021.

The agreed facts also demonstrate that ■ had not received a professional service from Mr. Chawla or visited the pharmacy since July 19, 2020 and demonstrate Mr. Chawla did not create any patient records to correspond with his access to ■'s personal health information on the above dates. Facts and evidence clearly demonstrate that Mr. Chawla accessed ■'s personal health information and that he did not have an authorized purpose for this access as it was not related to the provision of health services.

Regulated members are granted the privilege of accessing Netcare, which contains a significant amount of personal health information, for specific and authorized purposes related to the provision of medical services. It is a fundamental expectation that pharmacists will only access the information when authorized to do so and only use it for a proper purpose. Mr. Chawla accessed ■'s personal health information on four separate occasions for reasons which had nothing to do with his professional responsibilities or any medical care he was providing. This access was without justification or authorization. As Mr. Chawla was not responsible for providing services to ■ at the time he accessed ■'s records, he should never have looked at the personal health information. In addition, this was not a one-time lapse in judgment. Mr. Chawla repeatedly accessed ■'s information even though he should have understood it was not appropriate.

The Hearing Tribunal finds that the conduct in issue in Allegation 1 is "unprofessional conduct" pursuant to the HPA, which is defined to include a breach of the code of ethics, or standards of practice, or contravention of another enactment that applies to the profession. Mr. Chawla's conduct breached Standard 1 and Sub-sections 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians as he failed to comply with the law. His conduct also breached Principles 4(4) and 10(1) of the College's Code of Ethics as he failed to use information only for the purpose for which it was obtained and failed to comply with the spirit and intent of the law.

Section 25 of the HIA states custodians must only use health information in accordance with the HIA. Section 27 of the HIA specifies the circumstances in which a health care provider

and its employees are entitled to use personal health information. The HIA clearly prohibits health care providers from accessing personal information for non-medical reasons. There is no exception permitting access merely because the health care provider has concerns about the person. Section 107(2) states a person shall not collect, use, disclose, or create health information in contravention of the HIA or gain or attempt to gain access to health information in contravention of the HIA. As Mr. Chawla gained access to health information and used health information in contravention of the HIA as discussed above, his conduct breached the HIA.

Accordingly, the Tribunal finds that Mr. Chawla's conduct breached the College's Standards of Practice, the Code of Conduct, and the HIA. The breaches are a significant violation of privacy and are not merely technical in nature. While there was no evidence that Mr. Chawla disclosed the information, that does not excuse his unlawful access of the information. Mr. Chawla did not abide by his obligations as a pharmacist and licensee and such individuals cannot be seen to be allowed to access health information without a purpose. Given that health information is increasingly digital and "easy" to access for health professionals, a patient's right to privacy and confidentiality must be protected. The public has a right to expect that their health information will only be accessed for authorized purposes.

Mr. Chawla's conduct undermined the integrity of the profession, decreased the public's trust in the profession, and demonstrated a lack of judgment. Accordingly, the conduct proven is "unprofessional conduct" pursuant to the HPA.

V. SUBMISSIONS ON ORDERS

After receiving the Agreed Statement of Facts and Admission of Unprofessional Conduct, the Hearing Tribunal adjourned to deliberate. After the Hearing Tribunal deliberated, the Tribunal advised the parties that it accepted the Admission of Unprofessional Conduct by Mr. Chawla and determined that the allegations were proven and constituted unprofessional conduct. The Hearing Tribunal invited the parties to make submissions with respect to sanction.

The Hearing Tribunal was provided with a Joint Submission on Sanction (Exhibit 2). The Joint Submission on Sanction stated:

1. Mr. Chawla shall receive a written reprimand, which the Hearing Tribunal's written decision shall serve as.
2. Mr. Chawla shall, within 12 months from the date the Hearing Tribunal issues its written decision, provide evidence to satisfy the Complaints Director that he has received an unconditional pass on the Center for Personalized Education for Physicians (CPEP) Probe Course. If Mr. Chawla fails to provide evidence to satisfy the Complaints Director that he has received an unconditional pass on the CPEP Probe Course within 12 months of the date the Hearing Tribunal issues its written decision, his practice permit shall be suspended until such time as the Complaints Director is satisfied that an unconditional pass has been received.
3. Mr. Chawla's practice permit shall be suspended for 3 months, with

- a. 1 month to be served on dates acceptable to the Complaints Director and completed within 6 months from the date the Hearing Tribunal issues its written decision; and
- b. 2 months to be held in abeyance pending there being no further privacy concerns coming to the attention of the Complaints Director and referred to an investigation for a period of 2 years from the date the Hearing Tribunal issues its written decision.

If the Complaints Director receives and directs an investigation into a new complaint about Mr. Chawla related to privacy concerns within 2 years from the date the Hearing Tribunal issues its written decision, the Complaints Director shall be at liberty to impose the remaining 2-month suspension on Mr. Chawla's practice permit. If no further privacy concerns come to the attention of the Complaints Director that are referred to an investigation for a period of 2 years from the date the Hearing Tribunal issues its written decision, the remaining 2-month suspension shall expire.

4. Mr. Chawla shall provide a copy of the Hearing Tribunal's written decision in this matter to any pharmacy employer or licensee of a pharmacy in which he works for a period of 2 years, commencing on the date he receives a copy of the Hearing Tribunal's written decision.
5. Mr. Chawla shall be responsible for payment of all costs of the investigation and hearing to a maximum of \$10,000. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The costs shall be paid in full within 24 months of the date he receives a copy of the Hearing Tribunal's written decision.

Ms. Chisholm explained that there are four main purposes for imposing sanctions on members found to have engaged in unprofessional conduct: protection of the public, maintaining the integrity of the profession, fairness to the member, and deterrence both specific to the member and to the profession as a whole.

Ms. Chisholm submitted that consideration of the factors referenced in *Jaswal vs. Medical Board (Newfoundland) (1996)*, 42 Admin L.R. (2d) 233 would ensure the sanction served these four purposes. Ms. Chisholm reviewed the factors and made submissions as follows:

- *Nature and gravity of proven allegations*: Mr. Chawl's conduct demonstrated a disregard for the authority and trust granted to the profession and undermined the integrity of and the trust that the public places in the pharmacy profession. In an age where there is heightened sensitivity to the need for privacy and confidentiality, the conduct was serious. While the conduct would be more egregious if Mr. Chawla had accessed the information with malicious intent or for the purpose of disclosing it to a third party, it was still serious.

- *Age and experience of the offender:* Mr. Chawla had been registered with the College since March 5, 2014 and had over two years serving as the licensee of his pharmacy. The error could not be attributed to inexperience.
- *Previous character of a member and prior findings of unprofessional conduct:* The Complaints Director was not aware of any prior findings of unprofessional conduct or matters referred to a tribunal.
- *Number of times the offence occurred:* Mr. Chawla accessed the health information four times over a period of 3 months. This was more serious than a single incident, but it was also recognized the conduct did not continue for an excessively protracted period of time, such as a two-year period.
- *Role of the member in acknowledging what occurred:* Mr. Chawla's admission to the allegations was a clear mitigating factor in this case.
- *Financial or other serious penalties suffered as a result of the conduct:* Ms. Chisholm had no submissions on this factor.
- *Impact of the incident on the offended person:* ■ stated that ■ finds it uncomfortable to visit ■'s doctor because of concerns that any new health information uploaded to ■'s Netcare records would be accessed by Mr. Chawla.
- *The presence or absence of any mitigating circumstances:* Mr. Chawla acknowledged and admitted his misconduct.
- *The need to promote deterrence:* This means the sanctions should be such that Mr. Chawla does not repeat his conduct, and that the sanctions send a message to others in the profession so that similar conduct does not arise. The reprimand, suspension, and needing to give a copy of the decision to any employer for a two-year period would remind Mr. Chawla and other regulated members of the importance of upholding their obligations and that there would be serious consequences if they failed to do so.
- *The need to maintain public confidence in the integrity of the profession:* It is important, through discipline proceedings, to send a clear message to legislators and to the public that the profession takes its statutory and regulatory obligations seriously and that there will be appropriate sanctions if those obligations are not upheld.
- *Degree to which the conduct was regarded as unprofessional conduct:* The conduct was serious and clearly outside what is permitted.
- *The range of sanctions in other similar cases:* The Joint Submission on Sanction contained three hearing tribunal decisions, the *Decision of the Hearing Tribunal of the Alberta College of Pharmacy in the Matter of Kyle Kostyk*, the *Decision of the Hearing Tribunal of the Alberta College of Pharmacy in the Matter of Shemina Juma*, and the *Decision of the Hearing Tribunal of the Alberta College*

of *Pharmacy in the Matter of Soosai Stanislaus* where pharmacists were found to have inappropriately accessed personal health information. Ms. Chisholm outlined the sanctions imposed in the decisions and explained that the agreed penalties outlined in the Joint Submission on Sanction were similar to these three decisions. While there were no identical decisions, the decisions were similar to Mr. Chawla's actions and the sanctions were comparable, subject to variations to account for the particulars of each case.

In summary, Ms. Chisholm submitted the reprimand was appropriate as it served the purpose of specific deterrence and was consistent with the *Juma* and *Stanislaus* decisions. She advised the CPEP Probe Course is a weekend-long, intensive seminar that is individually tailored to review the specifics of the individual's conduct and ensure they understand what happened and why their conduct was unprofessional. The course would require Mr. Chawla demonstrate that he understands the errors of his conduct and has a desire to take responsibility for it in the future. The course would serve the purpose of specific deterrence but also satisfy the public that the chances of similar behavior recurring in the future is minimized.

Ms. Chisholm stated any recorded suspension is serious. She advised that the suspension was comparable to the other three cases for similar conduct and that its length, as well as holding a period of time in abeyance, was appropriate.

Similarly, Ms. Chisholm submitted the requirement for Mr. Chawla to provide a copy of the Tribunal's written decision to any pharmacy employer or licensee for a period of two years was consistent with the three precedent decisions and is important because future employers or the licensee of the pharmacy in which Mr. Chawla works should be made aware of the conduct to ensure that similar conduct is not repeated.

With respect to costs, Ms. Chisholm submitted the \$10,000 maximum amount in costs took into account Mr. Chawla's cooperation in the investigation and the lead-up to the hearing, as well as the fact that the Complaints Director did not need to call witnesses to prove the allegations and the hearing was not unnecessarily prolonged.

Ms. Chisholm also discussed the cases of *R v Anthony Cook*, 2016 SCC 43, and *Bradley v Ontario College of Teachers*, 2021 ONSC 2303. She stated that *Anthony Cook* is a criminal case which requires judges to apply the public interest test when considering a joint submission on sanction and the *Bradley* case accepts that this public interest test is the correct test to be applied in discipline hearings. Ms. Chisholm stated the public interest tests required tribunals to accept a joint submission on sanction unless the sanctions would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. This is a stringent test and, if the Tribunal felt the sanction did not meet the test, the Tribunal was required to ask for further submissions from the parties prior to making any charges or different orders.

In conclusion, Ms. Chisholm submitted the sanctions met the purposes of sentencing and met the public interest test as they would ensure specific deterrence with respect to Mr. Chawla and send a message of general deterrence to the profession. The sanctions were serious enough to protect the public and the integrity of the profession.

Mr. Sipma agreed with Ms. Chisholm's submissions and emphasized that this was Mr. Chawla's first complaint, that Mr. Chawla was cooperative throughout the process and that Mr. Chawla acknowledged his conduct was serious. He submitted the joint submission on sanction should be given deference and stated the sanctions were consistent with the decisions referenced by Ms. Chisholm. In summary, the agreed upon sanctions were fair, promoted deterrence, protected the public, and maintained the public's confidence and should be accepted by the Tribunal.

VI. ORDERS

After carefully considering the Joint Submission on Sanction, the facts of the case, and the submissions, the Hearing Tribunal accepted the Joint Submission on Sanction.

The Hearing Tribunal acknowledged that deference should be given to a joint submission on sanction and that the Hearing Tribunal ought not to depart from the joint submission unless the proposed sanctions would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

The Hearing Tribunal considered the orders that were jointly proposed. The Hearing Tribunal took into account all of the factors discussed in the *Jaswal* decision and the submissions of the parties, including the range of sanctions previously ordered in the three similar cases, Mr. Chawla's experience as a pharmacist and licensee, the absence of previous discipline history, the seriousness of Mr. Chawla's conduct, and Mr. Chawla's admission and cooperation with the College.

Mr. Chawla's conduct was serious and of significant concern. He used his authority as a custodian of health information to access personal health information in Netcare without an authorized purpose. He did so on four separate occasions in a short span of three months. While there is no evidence Mr. Chawla inappropriately disclosed the information, his actions are still well below the expectations of a pharmacist and licensee. The conduct is significant as it demonstrates either carelessness or a disregard of professional obligations.

Mr. Chawla's conduct demonstrated a disregard for the authority and trust granted to the profession. In this digital age, patients have the right to know that their personal health information contained in Netcare will be used appropriately and that the information will only be access if there is a legitimate reason pursuant to the HIA. Pharmacists cannot use Netcare when curious or to satisfy some other need that is unrelated to the health services they provide. They are certainly not entitled to access Netcare for personal reasons.

In addition, Mr. Chawla is not a new pharmacist, and this was not an error caused by inexperience. He should have understood his obligations regarding the use of a patient's personal health information, particularly given his status as a licensee.

The Tribunal also recognized the sanctions proposed were consistent with previous decisions. It is appropriate that similar cases be treated similarly.

The Tribunal acknowledges that Mr. Chawla admitted responsibility for his conduct and agrees that this is a factor that must be taken into account as a mitigating factor when considering what sanctions should be imposed. In addition, there was an absence of further aggravating factors such as a previous discipline history.

These factors were considered against the serious conduct from an experienced member of the profession who should have been aware of his obligations relating to personal information.

There is a need to ensure that Mr. Chawla, as well as other members of the profession, are aware that this type of conduct is not acceptable. Confidentiality of patient medical information is a core competency and the public needs to be made aware that a failure in this regard is something taken seriously. The sanction imposed is intended to deter future conduct of this nature and maintain the public's confidence in the integrity of the profession.

The Hearing Tribunal is satisfied that the orders set out in Joint Submission on Sanction will meet these needs. In addition, the Tribunal is of the view that the sanctions are fair and appropriate in the circumstances, particularly given the sanctions imposed in prior cases.

In this case, the reprimand, suspension, provision of this written decision to employers/licensees, and CPEP Probe Course will serve as an appropriate deterrent to Mr. Chawla and other members of the profession. It will also demonstrate to other members of the profession and the public that the College will take appropriate action if a member inappropriately accesses the personal health information of another individual. Given the significant requirements of the CPEP Probe Course, it will provide deterrence while also providing rehabilitative and educational components that will protect the public from future similar conduct. The reflective nature of this course is important. The sanctions are serious and demonstrate to the public that such conduct is not tolerated; thus, the sanctions serve the public's interest and uphold the integrity of the profession.

It is appropriate that Mr. Chawla be responsible for costs of the hearing and investigation, as it was his conduct that necessitated the proceedings. Nonetheless, the cap on the total costs' payable is appropriate in light of Mr. Chawla's admission and cooperation.

In conclusion, the Hearing Tribunal agreed that the proposed orders meet the public interest test and that they are appropriate having regard to the *Jaswal* factors and the principles that are relevant in assessing sanction in the professional discipline context.

Accordingly, the Hearing Tribunal made the following orders pursuant to s. 82 of the HPA:

1. Mr. Chawla shall receive a written reprimand, which the Hearing Tribunal's written decision shall serve as.
2. Mr. Chawla shall, within 12 months from the date the Hearing Tribunal issues its written decision, provide evidence to satisfy the Complaints Director that he has received an unconditional pass on the Center for Personalized Education for Physicians (CPEP) Probe Course. If Mr. Chawla fails to provide evidence to satisfy the Complaints Director that he has received an unconditional pass on the

CPEP Probe Course within 12 months of the date the Hearing Tribunal issues its written decision, his practice permit shall be suspended until such time as the Complaints Director is satisfied that an unconditional pass has been received.

3. Mr. Chawla's practice permit shall be suspended for 3 months, with
 - a. One (1) month to be served on dates acceptable to the Complaints Director and completed within six (6) months from the date the Hearing Tribunal issues its written decision; and
 - b. Two (2) months to be held in abeyance pending there being no further privacy concerns coming to the attention of the Complaints Director and referred to an investigation for a period of two years from the date the Hearing Tribunal issues its written decision.

If the Complaints Director receives and directs an investigation into a new complaint about Mr. Chawla related to privacy concerns within two years from the date the Hearing Tribunal issues its written decision, the Complaints Director shall be at liberty to impose the remaining 2-month suspension on Mr. Chawla's practice permit. If no further privacy concerns come to the attention of the Complaints Director that are referred to an investigation for a period of two years from the date the Hearing Tribunal issues its written decision, the remaining 2-month suspension shall expire.

4. Mr. Chawla shall provide a copy of the Hearing Tribunal's written decision in this matter to any pharmacy employer or licensee of a pharmacy in which he works for a period of two (2) years, commencing on the date he receives a copy of the Hearing Tribunal's written decision.
5. Mr. Chawla shall be responsible for payment of all costs of the investigation and hearing to a maximum of \$10,000. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The costs shall be paid in full within 24 months of the date he receives a copy of the Hearing Tribunal's written decision.

Signed on behalf of the Hearing Tribunal by the Chair on March 22, 2022.

Mary Gunther

[Mary Gunther \(Mar 22, 2022 16:02 MDT\)](#)

Per: Mary Gunther