

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF

SINAN HADI
Registration No. 9164

DECISION OF THE HEARING TRIBUNAL

I. INTRODUCTION

The Hearing Tribunal held a hearing into the conduct of Sinan Hadi. In attendance on behalf of the Hearing Tribunal were Kevin Kowalchuk, pharmacist and chairperson, Anil Goorachurn, pharmacist, Anita McDonald, pharmacist and Nancy Brook, public member. Greg Sim acted as independent counsel to the Hearing Tribunal.

The hearing took place on the 19th day of September 2018 at the second-floor conference center, 8215 112 St. NW, Edmonton, AB. The hearing was held under the terms of Part 4 of the *Health Professions Act* (“HPA”).

In attendance at the hearing were James Krempien, Complaints Director and David Jardine and Annabritt Chisholm legal counsel for the Complaints Director. Mr. Hadi was not in attendance at the hearing in person or by counsel.

II. ALLEGATIONS

IT IS ALLEGED THAT between September 24, 2016 and June 19, 2018, while registered as a pharmacist with the Alberta College of Pharmacy, Mr. Hadi:

1. Did unlawfully commit a sexual assault upon ██████¹, a minor, on or about September 24, 2016, at or near Edmonton, Alberta; an offence for which you were convicted under section 271 of the *Criminal Code* (Canada) on or about March 16, 2018;
2. Did without lawful authority, confine ██████, a minor, on or about September 24, 2016, at or near Edmonton, Alberta; an offence for which you were convicted under section 279(2) of the *Criminal Code* (Canada) on or about March 16, 2018;
3. Failed to inform the licensee or proprietor of ██████████ Pharmacy, your former employer, about the above charges and convictions against him;
4. Failed to inform the Alberta College of Pharmacy that the above charges were brought against you, including but not limited to in responses to questions for your annual renewal application submitted to the College in 2017;
5. Failed to inform the Alberta College of Pharmacy that on or about March 16, 2018 you were convicted under sections 271 and 279(2) of the *Criminal Code* (Canada); and

¹ Initials have been substituted for this individual’s name throughout this decision.

6. Failed or refused to comply with your duties as a pharmacist and comply with any of the requests made to you by an Investigator of the Alberta College of Pharmacy between April 24, 2018 and June 19, 2018.

III. PRELIMINARY MATTERS

There were no objections to the composition of the Hearing Tribunal or the jurisdiction of the Hearing Tribunal to proceed with a hearing. As Mr. Hadi was not present at 9:30am on September 19, 2018, the Hearing Tribunal heard the Complaints Director's application pursuant to section 79(6) of the HPA to proceed with the hearing in Mr. Hadi's absence and to determine the matters being heard.

Mr. Jardine submitted materials in support of the Complaints Director's application to proceed including the following:

1. Letter dated August 23, 2018 from the Hearings Director to the Complaints Director summarizing attempts to provide the Notice of Hearing to Mr. Hadi, including by email to Mr. Hadi's email address registered with the College, and registered mail and regular mail to Mr. Hadi's residential address registered with the College between July 18, 2018 and August 1, 2018.
2. Letter dated July 18, 2018 from the Hearings Director to Mr. Hadi by registered mail and email enclosing the Notice of Hearing and Notice to Attend and Notice to Produce to Sinan Hadi;
3. Registered mail tracking sheet showing item available for pick up at Post Office as of July 20, 2018;
4. Email dated July 18, 2018 from the Hearings Director to Mr. Hadi's email address attaching the Notice of Hearing document together with a confirmation of delivery to Mr. Hadi's email address from Microsoft Outlook;
5. Copy of "Hearing Notice: Sinan Hadi" posted at <https://abpharmacy.ca> as of July 24, 2018;
6. Affidavit of Attempts by [REDACTED] Process Server swearing that on Wednesday August 8, 2018 he attempted to personally serve Mr. Hadi with the Notice of Hearing and supporting documentation at his residential address municipally described as [REDACTED] Avenue NW in Edmonton, AB but an adult female resident at that address stated that she had just moved into the property on August 1, 2018 and had no knowledge of Mr. Hadi.

The Hearing Tribunal caucused to consider the application to proceed in Mr. Hadi's absence. Section 120(3) of the HPA provides that a document required to be given to a member under Part 4 of the HPA, such as a Notice of Hearing, is sufficiently given if given by personal service or sent by certified or registered mail to the person's address as shown on the College's register. The Tribunal was satisfied that the Complaints Director had sent the Notice of Hearing to Mr. Hadi as contemplated by the HPA. The Tribunal noted that efforts to provide the Notice of Hearing to Mr. Hadi in the manner contemplated by the HPA were taken by several means, including by email and registered

mail to Mr. Hadi's address on the register. The Hearing Tribunal further determined that it would be appropriate to proceed with the hearing and decide the matters before us in the absence of Mr. Hadi.

IV. EVIDENCE

The Complaints Director, Mr. Krempien testified. Mr. Krempien identified key evidence including the following:

On September 26, 2016 Mr. Hadi was criminally charged with sexual assault and unlawful confinement contrary to sections 271 and 279(2) of the *Criminal Code of Canada*.

Following a trial, on March 16, 2018 Mr. Hadi was convicted of both sexual assault and unlawful confinement of the Complainant's daughter, [REDACTED]. Mr. Krempien provided the confirmation of the convictions as well as a transcript of the Provincial Court of Alberta's reasons for judgment on March 16, 2018. The transcript recorded [REDACTED]'s sworn testimony that:

- On September 26, 2016 [REDACTED] was operating a motor vehicle and she was involved in an accident near West Edmonton Mall with another motor vehicle operated by Mr. Hadi. She immediately produced her driver's license, registration and insurance documentation for Mr. Hadi to see, but Mr. Hadi refused to provide his documentation to her since he told her the accident was not his fault.
- Mr. Hadi told her he thought the damage to his vehicle would cost in the range of \$10,000. She was upset as she had only recently obtained her driver's license and this was her first motor vehicle accident.
- After they moved their vehicles off the road to a nearby parkade, she asked Mr. Hadi if he thought she should call her parents. He said, "not yet".
- Mr. Hadi had her take a seat in his vehicle while he said he made a telephone call to a friend who he said was a lawyer. Mr. Hadi then told her his friend was not available and suggested they get coffee while they waited for him to be free.
- [REDACTED] understood Mr. Hadi was taking her to get coffee and they drove to a Starbucks in West Edmonton, however after getting coffees Mr. Hadi began to drive away from the area of West Edmonton Mall.
- While driving in his vehicle, Mr. Hadi told her not to mention the accident to her friends and tried to take her cell phone away from her.
- Mr. Hadi drove to [REDACTED] Registries and then announced that his friend was not there, but they would go to his house to "chill".
- He then drove her to a residence where he instructed her to go inside.
- [REDACTED] went into the house and sat on the couch. Mr. Hadi sat beside her on the couch and touched her thighs, rubbed her shoulders and back and moved her hair. He offered her a massage, which she declined and said she needed to leave. He then kissed her neck and said that he had a better idea and they should remain at the house or he would tell the police she had been texting while driving.

- Mr. Hadi then drove [REDACTED] back to the Mall. Just before she exited his vehicle, Mr. Hadi locked the doors, whispered into [REDACTED]'s ear and nibbled on it, then kissed her on the mouth and inserted his tongue. [REDACTED] testified that she screamed while Mr. Hadi's tongue was in her mouth.

The Court made findings of fact including that:

- After moving their vehicles, Mr. Hadi had [REDACTED] sit in his vehicle and then he began to drive her to other locations including a Starbucks and a residence. The Court found that once Mr. Hadi had driven [REDACTED] past the West Edmonton Mall, there could no longer be any mistaken belief that she was in his vehicle willingly.
- The Court found Mr. Hadi confined [REDACTED] without her consent in his vehicle and in the residence. She was being deprived of her liberty against her will and Mr. Hadi knew it.
- The Court also found Mr. Hadi sexually assault [REDACTED], beginning with touching her thigh while making very personal and intimate comments to her. The sexual assault also involved further touching in the house while making intimate comments, offering to give her a massage, kissing her on the neck and cheek, biting her ear and kissing her forcibly and inserting his tongue into her mouth.
- The Court concluded that for those reasons it found Mr. Hadi guilty of both charges before the Court.
- Sentencing was adjourned to be considered on May 28, 2018 and Mr. Hadi was ordered to remain within Canada and to surrender any passports or other travel documents to the Court within two days.

Mr. Krempien first received notice of the complaint on April 5, 2018 by telephone from an acquaintance of the Complainant. On April 9, 2018 Mr. Krempien spoke with the Complainant who explained that Mr. Hadi was convicted of the sexual assault and unlawful confinement of the Complainant's daughter, [REDACTED], who was a minor at the time in question.

On April 23, 2018 Mr. Krempien was contacted by [REDACTED], Licensee of the [REDACTED] Pharmacy. [REDACTED] indicated that until recently, Mr. Hadi had been employed at her pharmacy, but he had stopped coming to work 3 to 4 weeks before; he had not collected his last paycheque, and she had no information about his whereabouts. Mr. Krempien spoke with [REDACTED] on April 24, 2018 and she confirmed that around the end of March Mr. Hadi had sent a text saying he would not be coming back to the pharmacy. Mr. Krempien discussed the publicly available information about Mr. Hadi that he had obtained from the Provincial Court with [REDACTED]. At the hearing on September 19th, Mr. Krempien confirmed [REDACTED] said she had not been aware of Mr. Hadi's criminal proceedings.

Mr. Krempien received a formal complaint letter signed by the Complainant and his spouse on April 24, 2018. The complaint letter included a summary of Mr. Hadi's conduct, it attached a copy of [REDACTED]'s statement to the police as well as copies of victim impact statements from each of the Complainant and his spouse.

Mr. Krempien also wrote a letter to Mr. Hadi on April 24, 2018 notifying him of the complaint, notifying him that Mr. Krempien would be conducting an investigation and providing a copy of the complaint and the March 16, 2018 Provincial Court transcript. Mr. Krempien requested that Mr. Hadi provide a written response to the complaint by May 24, 2018. Mr. Hadi did not respond to the complaint at all.

Mr. Krempien also attempted to call Mr. Hadi on April 24, 2018 and left a voice message and sent an email message to Mr. Hadi requesting that Mr. Hadi contact the College. Mr. Hadi did not respond.

On April 25, 2018 Mr. Krempien made a recommendation to ACP Council's appointees under section 65 of the HPA to suspend Mr. Hadi's practice permit on an interim basis pending the completion of these discipline proceedings. Mr. Krempien also wrote to Mr. Hadi on April 25 notifying him of this recommendation. Mr. Krempien explained that Mr. Hadi could, if he wished, provide a submission of his own for the Council's appointees to consider before making a decision. Mr. Hadi did not provide a submission.

On April 26, 2018 Mr. Krempien again called Mr. Hadi's telephone number and left a voice message asking Mr. Hadi to call Mr. Krempien. Mr. Krempien also followed up with an email on April 26, 2018 to Mr. Hadi asking him to call. Mr. Hadi did not respond.

On April 30, 2018 the College's Hearing Director sent an email distributing the ACP Council Appointees' decision suspending Mr. Hadi's practice permit pending the outcome of these discipline proceedings to Mr. Hadi and to Mr. Krempien. The letter notified Mr. Hadi of his ability to apply to the Court of Queen's Bench for a stay of the suspension decision. Mr. Hadi did not respond.

Mr. Krempien explained that he was in Court on May 28, 2018 for Mr. Hadi's sentencing but Mr. Hadi did not attend Court. Mr. Hadi's lawyer indicated he had not heard from Mr. Hadi since March 16, 2018. Mr. Hadi's lawyer explained that he understood Mr. Hadi had breached his requirement to attend the Probation Office and the lawyer asked to be released from the record. A warrant had been issued for Mr. Hadi's arrest when he failed to comply with his condition to attend the Probation Office and the warrant had become Canada-wide. Mr. Krempien explained that he understood sentencing was then rescheduled to be addressed *ex parte*, without Mr. Hadi being present, on June 25, 2018. When sentencing did eventually occur, Mr. Hadi was sentenced to terms of imprisonment for the unlawful confinement and sexual assault, as well as a further term of probation.

Also, on May 28, 2018 Mr. Krempien emailed Mr. Hadi. Mr. Krempien set out that Mr. Hadi had not responded to any of Mr. Krempien's correspondence or his request for a written response to the complaint by May 24, 2018. Mr. Krempien notified Mr. Hadi that his failure or refusal to respond had led Mr. Krempien to consider that Mr. Hadi had committed unprofessional conduct by failing or refusing to cooperate with the

investigator. Mr. Krempien indicated that he considered Mr. Hadi's conduct an additional allegation in the subject complaint. No response was received from Mr. Hadi.

Mr. Krempien confirmed that until April 5, 2018 when he was first contacted by an acquaintance of the Complainant about this complaint, the College was unaware that Mr. Hadi had been criminally charged or convicted of the subject offences. Mr. Hadi had never disclosed the fact that he was criminally charged or convicted to the College.

Mr. Hadi's whereabouts remain unknown to the College. He remains suspended on an interim basis but in addition he omitted to submit a practice permit renewal application by the May 30, 2018 for the 2018/2019 practice year.

The Complaints Director called no other evidence.

V. **SUBMISSIONS**

Mr. Jardine then made closing submissions to the Hearing Tribunal. The main arguments on behalf of the Complaints Director were:

- Mr. Jardine explained that for the Hearing Tribunal to find any of the allegations proven, it must be satisfied that the Complaints Director has proven the allegations to be factually true and that the alleged conduct amounts to unprofessional conduct within the meaning of the HPA.
- Mr. Hadi's conduct did not occur in a pharmacy, or in his capacity as a pharmacist, but conduct of a professional outside of his or her workplace or outside of a professional capacity can be unprofessional conduct if it calls the integrity of the profession into question.
- A pharmacist engaging in the type of conduct for which Mr. Hadi was criminally convicted and then failing to comply with his obligation to report such matters to his professional regulator would call the integrity of the profession into question.
- Mr. Hadi took advantage of a minor female in vulnerable circumstances. [REDACTED] was upset and evidently frightened about the consequences of the motor vehicle accident. Mr. Hadi used those circumstances to persuade her to go with him; to ride in his vehicle; not to call for help; to enter a private residence and to sexually assault her while she was unlawfully confined.
- This is particularly concerning for a regulated member of the pharmacy profession, as members of the profession would regularly encounter members of the public, including minors for private health counselling. There is no question from the College's perspective Mr. Hadi's conduct was unprofessional.
- The material obtained from the Provincial Court proceedings is sufficient proof of allegations 1 and 2 as the Court convicted Mr. Hadi of the conduct alleged and the conviction is evidence upon which the Hearing Tribunal may find the allegations proven.
- Allegation 3 can be found proven based on Mr. Krempien's evidence that [REDACTED] confirmed she was unaware of Mr. Hadi's criminal charges or convictions until Mr. Krempien advised her of them in late April 2018.

- Allegations 4 and 5 can be found proven based on the evidence that at no time has Mr. Hadi disclosed to the College that he was criminally charged or convicted in relation to his conduct towards [REDACTED], on his 2017/2018 practice permit renewal application, or otherwise.
- Finally, Mr. Hadi at no time responded to Mr. Krempien's request for a response to the complaint or to any other correspondence related to the investigation and this represented a failure to cooperate with the investigation which is a very serious matter in a regulated profession.

VI. FINDINGS

The Hearing Tribunal found allegations 1, 2, 3, 4, 5 and 6 to be proven. The Hearing Tribunal was satisfied that the conduct alleged in these allegations occurred, and that it amounted to unprofessional conduct within the meaning of the HPA.

Allegations 1 and 2 are set out above and allege that Mr. Hadi unlawfully confined and sexually assaulted [REDACTED]. [REDACTED]'s sworn testimony from the criminal proceedings and the Provincial Court's findings of fact and Mr. Hadi's convictions based on that and other testimony in Provincial Court are also summarized above. The convictions for unlawful confinement and sexual assault are evidence that Mr. Hadi committed the unlawful confinement and sexual assault as alleged. The Hearing Tribunal carefully considered the evidence and noted that there was no evidence refuting allegations 1 and 2 other than Mr. Hadi's testimony in the Provincial Court proceedings which the Trial Judge rejected. The Hearing Tribunal therefore found allegations 1 and 2 to be factually proven.

The Hearing Tribunal also concluded that Mr. Hadi's proven conduct in allegations 1 and 2 was unprofessional for a regulated member of the pharmacy profession. Pharmacists are important members of the healthcare team who are empowered to see and care for patients, including with advice and treatment to patients, including minors, in confidential settings. It is therefore of the utmost importance that the public trust members of the pharmacy profession to abide by high ethical and practice standards. Mr. Hadi's conduct harms the integrity of the pharmacy profession in the eyes of the public and is unprofessional.

Allegation 3 was that Mr. Hadi failed to inform the licensee or proprietor of a pharmacy where he had recently been employed, of the criminal charges and convictions against him. The Hearing Tribunal found this allegation factually proven based on Mr. Krempien's evidence that [REDACTED], the licensee of the pharmacy in question, had been unaware of Mr. Hadi's criminal proceedings until late April 2018, when Mr. Krempien advised her of them.

The evidence was that Mr. Hadi was charged with two counts under the *Criminal Code of Canada* on September 26, 2016 but Mr. Hadi never alerted [REDACTED] to the fact that he had been criminally charged, or that he was later convicted in March of 2018. [REDACTED] had been unaware until Mr. Krempien advised her in late April 2018. The

Tribunal concluded that Mr. Hadi had failed to demonstrate the ethical conduct and judgment expected of an Alberta pharmacist and he breached the trust placed in him. Specifically, the Tribunal concluded that Mr. Hadi acted contrary to principle 11.4 of the College's Code of Ethics. This principle requires that regulated members of the College will promptly declare to appropriate individuals any circumstances that may call into question their fitness to practice or bring the pharmacy profession into disrepute, including...criminal convictions.

The Tribunal concluded that "appropriate individuals" referred to in principle 11.4 would include a regulated member's pharmacy licensee or the proprietor of a pharmacy in which they are working. If "appropriate individuals" were to be interpreted narrowly, to mean only College staff, it would mean that regulated members would only have to bring significant circumstances to the attention of the College while their employers remain unaware. This would be counterintuitive since pharmacy licensees have a significant interest in ensuring the safe and proper operation of the pharmacy. This interest would be frustrated if the pharmacy licensee or proprietor was to be unaware of circumstances such as occurred here.

The Tribunal also considered that "circumstances that may call into question my fitness to practice or bring the pharmacy profession into disrepute" referred to in principle 11.4 of the Code of Ethics is sufficiently broad to include serious criminal charges as well as the expressly mentioned criminal convictions. It would not make sense for a regulated member of the College to have to report every minor interaction with law enforcement, such as traffic violations for example, to his or her licensee, proprietor and the College. Serious criminal charges such as those against Mr. Hadi are different and do warrant disclosure so that appropriate safeguards and precautions can be put in place.

The Tribunal therefore concluded allegation 3 was factually proven. The Tribunal also found that Mr. Hadi's failure to disclose to ██████████ was unprofessional conduct. Mr. Hadi's criminal charges were serious allegations of unlawful confinement and sexual assault of a minor. ██████████ had an obligation to ensure the safe and proper operation of her pharmacy, including the safety of its patients. In order to do that she had an interest in knowing about Mr. Hadi's criminal charges so that she could consider how to implement appropriate safeguards while the criminal charges were pending. Mr. Hadi frustrated that interest. Similarly, after he was convicted, ██████████ had an even stronger need to know, so that she could consider what precautions to take. Mr. Hadi frustrated this need as well.

Allegations 4 and 5 similarly alleged that Mr. Hadi failed to inform the College about the criminal charges brought against him, including on his practice permit renewal application submitted in May 2017, and about his criminal convictions on March 16, 2018.

The evidence was that Mr. Hadi made no attempts to notify the College of the criminal charges laid against him in September 2016 or of his convictions in March 2018. This was despite completing a renewal application for his practice permit in 2017, for the

2017/2018 registration year. The Tribunal heard that Mr. Hadi, like all regulated members of the College, had to have reviewed principle 11.4 of the Code of Ethics and then declared that he had nothing to disclose in order to complete his online renewal application for 2017/2018. This was untrue for the reasons discussed above under allegation 3. The Tribunal therefore concluded that allegations 4 and 5 were factually proven. Further, Mr. Hadi's conduct was unprofessional conduct. Mr. Hadi failed to demonstrate the ethical conduct and judgment expected of an Alberta pharmacist and breached the trust placed in him as a member of the College. Mr. Hadi's conduct breached principle 11.4 of the College's Code of Ethics by not disclosing the criminal charges or the convictions. It is incumbent on regulated members of the pharmacy profession to disclose serious criminal charges and criminal convictions to the College so that the College can monitor and ensure appropriate safeguards and precautions are taken to protect the public interest.

Finally, allegation 6 was that Mr. Hadi failed or refused to comply with his duties as pharmacist and to comply with requests of the College's investigator, Mr. Krempien between April 24 and June 19, 2018. The Hearing Tribunal noted that Mr. Krempien made a number of attempts to contact Mr. Hadi using the contact information he had provided to the College to no avail. In particular, Mr. Hadi provided no response to the complaint itself, despite Mr. Krempien's letter requesting a written response no later than May 24, 2018.

The Tribunal concluded that this allegation was factually proven. Mr. Krempien's request for a response to the complaint by May 24, 2018 was a clear regulatory request for a response. Mr. Hadi's omission to respond in any way to Mr. Krempien's April 24 letter or to any of his other correspondence was a clear failure to cooperate with the investigator and the investigation.

The Tribunal also concluded Mr. Hadi's conduct was unprofessional conduct. The Tribunal noted that failing or refusing to comply with or cooperate with an investigation is specifically included in the definition of unprofessional conduct in section 1(1)(vii)(B) of the HPA. The Tribunal accepted Mr. Jardine's submission that in regulated professions the duty to cooperate with the regulator's investigation is paramount because cooperation with the regular is an aspect of governability upon which self-governance depends.

VII. ORDERS

The Hearing Tribunal announced its findings of unprofessional conduct on allegations 1, 2, 3, 4, 5 and 6 and then asked if the Complaints Director wished to proceed with submissions on sanction. Mr. Jardine indicated he could proceed with submissions on sanctions on September 19, 2018 but suggested the Tribunal provide additional time for the College to notify Mr. Hadi of the Tribunal's decision and the Complaints Director's position on sanction and to allow Mr. Hadi to make submissions on sanction of his own if he chooses. The Tribunal accepted this suggestion.

Mr. Jardine then provided submissions on sanction and costs. Mr. Jardine indicated that the Complaints Director was seeking an order for the cancellation of Mr. Hadi's registration with the College and an order that he be responsible for the full costs of the investigation and hearing. The main points of Mr. Jardine's argument were as follows:

- The purposes of sentencing in professional discipline cases are to protect the public and to protect the integrity of the profession, while preserving fairness to the member.
- In this case these interests would best be served by cancellation and an order for Mr. Hadi to bear the full costs. The proven conduct was severe and it included Mr. Hadi's failure or refusal to cooperate with the investigation.
- If a sanction short of cancellation were to be substituted, the public would be justifiably concerned about the ineffective regulation of the pharmacy profession.
- Fairness to the member will be preserved because Mr. Hadi will be provided with notice that the Tribunal is considering sanctions and that it will accept submissions from him if he chooses.
- Mr. Jardine then reviewed specific factors relevant to the assessment of sanctions in this case. These included the very serious nature and gravity of the proven unprofessional conduct; the fact that Mr. Hadi was not a new or inexperienced pharmacist unaware of how to conduct himself; the fact that [REDACTED] was a minor and Mr. Hadi encountered her in vulnerable circumstances of which he took advantage; the evidence of the impact of Mr. Hadi's conduct on [REDACTED]'s life and those of her family members; the need for both specific deterrence of Mr. Hadi and for general deterrence for others in the pharmacy profession who might otherwise think that similar behavior would be treated mildly; and the need to impose sanctions that will maintain public confidence in the regulation of the pharmacy profession.
- Mr. Jardine also highlighted that Mr. Hadi had no prior discipline history and this could be weighed as a mitigating factor on the issue of sanctions.
- Mr. Jardine also pointed the Hearing Tribunal to some prior cases which will be discussed below in the Tribunal's reasons.
- On the issue of costs Mr. Jardine argued that costs in this case would be relatively modest given the efficiency with which the allegations were prosecuted at the hearing. Mr. Jardine submitted there was no justification in this case to order Mr. Hadi to pay less than full costs of the investigation and hearing.

The Hearing Tribunal received confirmation that on September 27, 2018 Mr. Hadi was provided notice of the Tribunals' findings of unprofessional conduct and given two weeks to provide any submissions on sanctions. Submissions were not received from Mr. Hadi. The Tribunal then concluded its deliberations of the orders to be imposed.

After deliberations, the Hearing Tribunal agreed that the penalties suggested by Mr. Jardine were appropriate. The Hearing Tribunal specifically considered these factors:

- The seriousness of Mr. Hadi's proven unprofessional conduct, which also led to charges and convictions under the Criminal Code for sexual assault and unlawful confinement involving a minor. Mr. Hadi's unprofessional

conduct was severe and alarming for a member of the pharmacy profession.

- The fact that no attempt was made by Mr. Hadi to advise both the College and his employer of the pending charges and the resulting criminal convictions.
- Mr. Hadi's persistent failure to cooperate with Mr. Krempien's investigation suggests a lack of the indicia of governability upon which the effective regulation of a self-governing profession depends. The Tribunal also notes that Mr. Hadi failed to attend the hearing or his criminal sentencing and that a Canada-wide warrant has been issued for him. Mr. Hadi's failure to attend and face the consequences of his actions is a concern for the Hearing Tribunal.
- Although Mr. Hadi had no prior discipline history, this had to be weighed against the totality of Mr. Hadi's proven unprofessional conduct; the gravity and seriousness of all six allegations that were found to be proven. The Hearing Tribunal felt that cancellation was appropriate despite the lack of a prior discipline history.
- The Hearing Tribunal took into consideration the fact that Mr. Hadi is not a new or inexperienced pharmacist unaware of how to conduct himself, so inexperience should not be considered a mitigating factor. The Tribunal considered that a very junior, inexperienced member of the profession may be unfamiliar with some technical or detailed aspects of the practice of the profession but this case was not about technical or detailed aspects of pharmacy practice. This was a case about basic ethical expectations and all regulated members are expected to conduct themselves appropriately, with integrity and in compliance with the law at all times, regardless of their degree of experience or seniority.
- The Tribunal also considered that pharmacists are regarded as important members of the healthcare team who are both trusted and empowered to see and care for patients, including with advice and treatment to patients, including minors, in confidential settings. It would be incongruous to allow an individual like Mr. Hadi, whose proven conduct has been fundamentally inconsistent with pharmacists' position of trust, to remain a regulated member entitled to practice.

The Tribunal also reviewed the prior cases submitted by Mr. Jardine. In the 2000 case of Melissa Foreman, the member was found to have practiced while suspended, created false prescription records, stolen anabolic steroids from a pharmacy, attempted to rob the pharmacy and to have stolen money from another pharmacy and then failed to appear in Court. The College's Investigating Committee, as it was at the time, recognized that Ms. Foreman's conduct was at the extreme end of the spectrum of unprofessional conduct. Her registration was cancelled, she was fined and she was held responsible for all of the costs of the investigation and hearing within six months.

In the 2007 case of Andrew Wong, the pharmacist was found to have provided a false declaration to an Investigating (hearing) Committee of the College in 2005 that he had

ceased an internet pharmacy business and any other activities not approved by the College. Mr. Wong did not cooperate with the 2007 Investigating Committee and it found him to have acted with contempt for the authority of his profession. Mr. Wong's registration was revoked, he was fined and ordered to pay the total costs.

In the 2010 case of Philip Leung, the pharmacist was found by the Hearing Tribunal to have stolen large quantities of OxyContin and other narcotics from the pharmacy where he was employed for the purposes of illegal distribution. He was also found to have failed to properly cooperate with the Complaints Director's investigation by failing to meaningfully respond to requests for his response to the allegations. The Hearing Tribunal imposed an order for cancellation, a fine and all of the costs of the investigation and hearing, along with orders for the publication of the decision.

In the 2016 case of Calvin Boey, the pharmacist was found to have diverted various medications from the pharmacy at which he worked for personal use, and possibly for other undetermined uses. He was also found to have abused his position of trust by creating fictitious patient profiles and prescription transactions and breaching the orders of a previous Hearing Tribunal. Mr. Boey's registration was cancelled.

The Hearing Tribunal also considered other previous decisions provided by the Complaints Director, such as the 2018 case of Moustafa Alrefaey, also involving a serious boundary violation. The Tribunal noted that in the Alrefaey case, a lesser sanction of a 3 month, partially suspended suspension, was imposed, along with related orders and an order for 75% of the costs. The Tribunal considered that the boundary violation in the Alrefaey case was less severe, as aspects of the conduct had been consensual, Mr. Alrefaey had been cooperative and he had participated in a joint submission on sanctions. These factors distinguished the case from the one currently before us.

It is of the utmost importance that the public trust members of the pharmacy profession to abide by high ethical and practice standards. Mr. Hadi's conduct harms the integrity of the pharmacy profession. It is important that the Hearing Tribunal impose sanctions with a view to maintaining the public's confidence in the proper regulation of the pharmacy profession. In this case cancellation is warranted. In addition, it is appropriate to require that Mr. Hadi bear the costs of the investigation as well as the hearing, which was conducted efficiently. Accordingly, the Hearing Tribunal makes the following orders:

1. Cancellation of Mr. Hadi's registration with the College.
2. Mr. Hadi shall be responsible to pay the full costs of the investigation and hearing.

Signed on behalf of the hearing tribunal on October 16, 2018.

Kevin Kowalchuk
Hearing Tribunal Chair