

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF  
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING REGARDING  
THE CONDUCT OF

**MOHAMED ELSAYED HAGGAG**  
**Registration number 11654**

**DECISION OF THE HEARING TRIBUNAL**

June 5, 2019

## **I. INTRODUCTION**

The Hearing Tribunal held a hearing into the conduct of Mohamed Elsayed Haggag (the "Investigated Member"). In attendance on behalf of the Hearing Tribunal were: Rick Hackman (pharmacist and Chair), Sarah Gutenberg (pharmacist), Beverley Rushton (pharmacist), and James Lees (public member).

The hearing took place on April 23, 2019 at Edmonton, Alberta. The hearing was held under the terms of Part 4 of the *Health Professions Act*.

In attendance at the hearing were: Paula Hale, representing the Complaints Director; James Krempien, the Complaints Director; the Investigated Member; Billal Saleem, representing the Investigated Member; and James T. Casey, Q.C., independent legal counsel to the Hearing Tribunal.

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 allegations considered by the Hearing Tribunal are as follows:

IT IS ALLEGED THAT, between June 1, 2016 to July 31, 2017, while you were both a licensed Alberta pharmacist (Registration number 11654) and the licensee of Alberta Avenue Pharmacy (Licence 3054), you:

1. Submitted, or allowed for the submission of, approximately \$85,495.93 worth of claims for 8 nutritional products (Boost, Ensure Fibre, Ensure High Protein, Ensure Plus, Ensure Regular, Glucerna, Pediaure and Pediaure Fibre) and two drugs (Advair and Symbicort) to Alberta Blue Cross ("ABC") without being able to provide the required supporting invoices;
2. Created or allowed to be created, incorrect dispensing records when you submitted or allowed to be submitted, claims for dispensing:
  - a. drugs (Advair and Symbicort) when Alberta Avenue Pharmacy did not have the corresponding drug stock for those drugs to have been dispensed to patients;
  - b. nutritional products (Boost, Ensure Fibre, Ensure High Protein, Ensure Plus, Ensure Regular, Glucerna, Pediaure and Pediaure Fibre), when Alberta Avenue Pharmacy did not have the corresponding stock for those products to have been dispensed to patients;
  - c. nutritional products interchangeably despite these products not being considered interchangeable by ABC;
  - d. drugs to two patients on a daily basis when they were in fact dispensed on a weekly basis; and

- e. drugs that were ineligible for coverage by using an inaccurate DIN number that was eligible for coverage;
3. Dispensed drugs on several occasions when you were not authorized to do so, including:
    - a. dispensing drugs both prior to, and without, the authorization of the prescriber;
    - b. dispensing quantities of drugs in excess of the quantities authorized by the prescriber;
  4. Wrote and subsequently dispensed prescriptions that were incomplete and missing required information, including 22 prescriptions that did not include the patient's last name, 21 prescriptions that were missing the prescriber's signature, 9 prescriptions did not state the date the prescription was written, and 1 prescription was submitted prior to the date the prescription was authorized;
  5. Failed to act ethically or honestly with Alberta Blue Cross; and
  6. Failed to ensure the pharmacy was maintaining a system that:
    - a. identified each regulated member and employee who was granted access to the system; and
    - b. created an accurate audit trail of persons using the system, despite being aware of the requirement to do so and the capability of the pharmacy's software to accomplish this.

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;
- d. Created the potential for patient harm; and
- e. 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:

- Standards (in particular sub-standards 1.1 and 1.2), 6 (in particular sub-standards 6.1(a), 6.3, 6.7(a), 6.7(j) and 6.7(k)), 7(in particular sub-standards 7.1(a), 7.1(b), 7.16(b) and 7.17(c)), Standard 11.10, and 18 of the Standards of Practice for Pharmacists and Pharmacy Technicians;

- Standards (in particular sub-standards 1.1 and 1.2), 5.10 and 8 (in particular sub-standards 8.1, 8.3(b), 8.6(e) and 8.6(g)) of the Standards for the Operation of Licensed Pharmacies;
- Principles 1(1, 7, 12) and 10 (1, 2) of the Alberta College of Pharmacy's Code of Ethics;
- Sections C.01.041(1)(a), C.01.041(3) and C.01.042 of the Food and Drug Regulations;
- Sections 10(1)(d)(i) and 10(1)(d)(iv) of the Pharmacy and Drug Act, and
- Section 12(1) of the Pharmacy and Drug Regulation;

and that the conduct and breaches set out above constitutes unprofessional conduct pursuant to the provisions of sections 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii), and 1(1)(pp)(xii) of the *Health Professions Act* and constitutes misconduct pursuant to the provisions of sections 1(1)(p)(i), 1(1)(p)(ii), 1(1)(p)(iv), 1(1)(p)(vi) and 1(1)(p)(ix) of the *Pharmacy and Drug Act*.

As part of the consent hearing process, the College agreed to amend Allegation 2 by inserting substituting the word “incorrect” for “false” as noted in the underlining above.

The matter proceeded by Admission of Unprofessional Conduct, an Agreed Statement of Facts and a Joint Submission on Sanction. Through the Admission of Unprofessional Conduct, the Investigated Member admitted the allegations set out above.

### **III. EVIDENCE**

The Agreed Statement of Facts provided by the parties states:

1. Mohamed Elsayed Haggag (Mr. Haggag) has been a registered regulated pharmacist with the College of Pharmacy since January 6, 2014.
2. At all times relevant to this matter, Mr. Haggag was the licensee and proprietor of Alberta Avenue Pharmacy in Edmonton, Alberta.
3. This matter arose as a result of a complaint from [REDACTED] Manager of Claims Assurance Services at Alberta Blue Cross and a complaint from [REDACTED] a pharmacy consultant employed by Alberta Blue Cross. Copies of these complaints are included in Exhibit 3 at Tabs 1 and 2.
4. The claims arose as a result of the information provided to or obtained by Alberta Blue Cross during a directed audit of Alberta Avenue Pharmacy.

5. The complaints were investigated by Mr. Monty Stanowich, an investigator appointed by the Complaints Director of the Alberta College of Pharmacy, Mr. James Krempien.
6. Mr. Stanowich provided an Investigation Report detailing the results of his investigation to Mr. Krempien on August 23, 2018. Based on the Investigation Report including the attached documents, the Complaints Director, Mr. Krempien, determined that the complaints should be referred to a hearing tribunal. A copy of Mr. Krempien's Record of Decision referring the complaints is included in Exhibit 3 at Tab 3.
7. After receiving Mr. Krempien's Record of Decision, the Hearings Director of the Alberta College of Pharmacy, Ms. Margaret Morley, appointed this Hearing Tribunal.
8. By agreement of the parties, the original hearing date for this matter was adjourned to April 23 and 24, 2019.
9. Mr. Haggag and the Complaints Director have now agreed that this hearing will proceed by way of a written Admission of Unprofessional Conduct by Mr. Haggag and, if the hearing tribunal accepts Mr. Haggag's admissions, a Joint Submission on Sanctions.
10. As part of the consent hearing process, the College has agreed to amend Allegation 2. An amended Notice of Hearing is included in Exhibit 3 at Tab 4.

#### **IV. ADMISSION OF UNPROFESSIONAL CONDUCT**

The admissions provided by the Investigated Member are as follows:

1. Pursuant to section 70 of the *Health Professions Act*, Mohamed Elsayed Haggag wishes to provide a written admission of unprofessional conduct under the *Health Professions Act* for consideration by the Hearing Tribunal.
2. Mr. Haggag acknowledges and admits that as a pharmacist and as the licensee of Alberta Avenue Pharmacy, Alberta, he:
  1. Submitted, or allowed for the submission of, approximately \$85,495.93 worth of claims for 8 nutritional products (Boost, Ensure Fibre, Ensure High Protein, Ensure Plus, Ensure Regular, Glucerna, Pediasure and Pediasure Fibre) and two drugs (Advair and Symbicort) to Alberta Blue Cross ("ABC") without being able to provide the required supporting invoices;
  2. Created or allowed to be created, incorrect dispensing records when he submitted or allowed to be submitted, claims for dispensing:

- a) drugs (Advair and Symbicort) when Alberta Avenue Pharmacy did not have the corresponding drug stock for those drugs to have been dispensed to patients;
  - b) nutritional products (Boost, Ensure Fibre, Ensure High Protein, Ensure Plus, Ensure Regular, Glucerna, Pediasure and Pediasure Fibre), when Alberta Avenue Pharmacy did not have the corresponding stock for those products to have been dispensed to patients;
  - c) nutritional products interchangeably despite these products not being considered interchangeable by ABC;
  - d) drugs to two patients on a daily basis when they were in fact dispensed on a weekly basis; and
  - e) drugs that were ineligible for coverage by using an inaccurate DIN number that was eligible for coverage;
3. Dispenses drugs on several occasions when he was not authorized to do so, including:
- a. dispensing drugs both prior to, and without, the authorization of the prescriber; and
  - b. dispensing quantities of drugs in excess of the quantities authorized by the prescriber;
4. Wrote and subsequently dispensed prescriptions that were incomplete and missing required information, including 22 prescriptions that did not include the patient's last name, 21 prescriptions that were missing the prescriber's signature, 9 prescriptions did not state the date the prescription was written, and 1 prescription was submitted prior to the date the prescription was authorized;
5. Failed to act ethically or honestly with ABC; and
6. Failed to ensure the pharmacy was maintaining a system that:
- a. identified each regulated member and employee who was granted access to the system; and
  - b. created an accurate audit trail of persons using the system, despite being aware of the requirement to do so and the capability of the pharmacy's software to accomplish this.
3. Mr. Haggag agrees and acknowledges that his conduct in these matters:
- a. Breached his 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;
  - d. Created the potential for patient harm; and
  - e. Failed to exercise the professional and ethical judgment expected and required of an Alberta pharmacist and a pharmacy licensee.
4. Mr. Haggag further agrees and acknowledges that his conduct, as set out above, constitutes a breach of the following statute, standards of practice and code of ethics governing the practice of pharmacy, specifically
- Standards 1 (in particular sub-standards 1.1 and 1.2), 6 (in particular sub-standards 6.1(a), 6.3, 6.7 (a), 6.7(j) and 6.7(k)), 7 (in particular sub-standards 7.1(a), 7.1(b), 7.16(b) and 7.17(c)), standard 11.10 and 18 of the Standards of Practice for Pharmacists and Pharmacy Technicians;
  - Standards 1 (in particular sub-standards 1.1 and 1.2), 5.10 and 8 (in particular sub-standards 8.1, 8.3(b), 8.6(e) and 8.6(g)) of the Standards for the Operation of Licensed Pharmacies;
  - Principles 1(1,7,13) and 10(1,3) of the Alberta College of Pharmacy's Code of Ethics;
  - Sections C.01.041(1)(a), C.01.041(3) and C.01.042 of the Food and Drug Regulations;
  - Section 37 of the Narcotic Control Regulations;
  - Section 10(1)(d)(i) and 10(1)(d)(iv) of the *Pharmacy and Drug Act*, and
  - Section 12(1) of the Pharmacy and Drug Regulation.

and that his conduct set out above constitutes unprofessional conduct pursuant to the provisions of sections 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii), and 1(1)(pp)(xii) of the *Health Professions Act* and constitutes misconduct pursuant to the provisions of sections 1(1)(p)(i), 1(1)(p)(ii), 1(1)(p)(iv), 1(1)(p)(vi) and 1(1)(p)(ix) of the *Pharmacy and Drug Act*.

4. As Complaints Director, James Krempien, acknowledges that Mr. Haggag and his legal counsel have been fully cooperative throughout the investigation, hearing process and in developing this Admission of Unprofessional Conduct.
5. Mr. Haggag undertook to remedy processes which were in breach of the above provisions and there have been no further issues at the pharmacy or concerns of compliance that have been identified since those changes were implemented.
6. Mr. Haggag acknowledges that he has received legal advice prior to entering into this Admission of Unprofessional Conduct and that he understands that if the Hearing Tribunal accepts his Admission of Unprofessional Conduct, the Hearing Tribunal may proceed to issue one or more of the orders set out in section 82(1) of the *Health Professions Act*.

## V. SUBMISSIONS

On behalf of the Complaints Director, Paula Hale proposed a Joint Submission on Sanction which involves a:

- Suspension of 4 months, with 1 month to be served starting on a date acceptable to the Complaints Director and being no later than 30 days after the date of the Hearing tribunal's written decision, and the remaining 3 months held in abeyance for a period of 3 years if there are no further complaints or findings of unprofessional conduct and the Investigated Member has paid the fines and costs.
- For allegation 1, a fine of \$10,000 to be paid within 1 year from his receipt of the Hearing Tribunal's written decision.
- For allegation 2, a fine of \$10,000 to be paid within 1 year from his receipt of the Hearing tribunal's written decision.
- For allegation 3, a fine of \$5,000 to be paid within 1 year from his receipt of the Hearing Tribunal's written decision.
- For allegation 4, a fine of \$2500 to be paid within 1 year from his receipt of the Hearing Tribunal's written decision.
- For allegation 5, a fine of \$2500 to be paid within 1 year from his receipt of the Hearing Tribunal's written decision.
- For the period of three (3) years from the date of the Hearing Tribunal's decision, Mr. Haggag shall not be permitted to be an owner, proprietor or licensee of a pharmacy.
- Payment of half the costs to a maximum of \$15,000 within 1 year from his receipt of the Hearing Tribunals' written decision and the statement of costs from the Alberta College of Pharmacy.
- Mr. Haggag will provide a copy of the Hearing Tribunal's written decision to the licensee of Alberta Avenue Pharmacy and, for a period of three (3) years, to the licensee of any other pharmacy in which he works as a pharmacist.

Ms. Hale acknowledged that the unprofessional conduct was serious in nature. She emphasized that the combined suspension and significant amount of the fines will serve as a specific and general deterrent. She acknowledged the significant mitigating factor of the Investigated Member accepting responsibility and that he has no disciplinary record. She highlighted the significant public protection arising from the prohibition on the Investigated Member being an owner, proprietor or licensee of a pharmacy for 3 years. In addition, public protection is enhanced by requiring the Investigated Member to disclose the Hearing Tribunal's decision to the licensee of any pharmacy in which he worked. She noted that the Investigated Member had repaid the amount owed to Blue Cross as a result of the audit. Ms. Hale also emphasized that this was proceeding by way of a Joint Submission on Sanction and as a result the Hearing Tribunal should not interfere unless it finds the sanctions to be contrary to public policy.

On behalf of the Investigated Member, Billal Saleem submitted that the Investigated Member was remorseful and had taken responsibility. He has been cooperative with the College throughout this matter. The problems occurred unknowingly and unintentionally but as the licensee the Investigated

member accepts his responsibility. Mr. Saleem emphasized the very significant impact on the Investigated Member of having to give up ownership and operation of the pharmacy.

## **VI. FINDINGS**

During the hearing on April 23, 2019 the Hearing Tribunal verbally advised the parties that it accepted the Investigated Member's admission of unprofessional conduct. The facts as admitted by the Investigated Member support the admission.

## **VI. ORDERS**

At the conclusion of the hearing on April 23, 2019 the Hearing Tribunal provided a verbal decision accepting the Joint Submission on Sanction. This decision confirms our decision and provides reasons. We acknowledge that deference should be provided to Joint Submissions on Sanction and that we ought not to depart from the Joint Submission unless we consider the sanctions to be unfit or unreasonable.

The Hearing Tribunal considered several factors before arriving at the decision to accept the Joint Submission on Sanction. Mr. Haggag acknowledged the seriousness of the offenses and has accepted responsibility for them by way of his admission. He has no prior record of unprofessional conduct, has cooperated fully with the investigation, and has made full restitution to Alberta Blue Cross. Mr. Haggag has been a registrant with the Alberta College of Pharmacy since 2014 and, as such, ought to reasonably be expected to understand the requirements of a licensee.

The Tribunal assessed the joint submission for appropriateness of sanction and its effectiveness as a future deterrent for both Mr. Haggag and the profession at large. The fines imposed and costs are significant. However, the suspension from practicing as a pharmacist for 4 months (with 3 months held in abeyance) and a further suspension from assuming a role as an owner, proprietor, or licensee for 3 years also amounts to a significant financial deterrent. The Tribunal also recognized the requirement to provide a copy of the Hearing Tribunal written decision to any future licensee he works for as a pharmacist for 3 years and the policy of the Alberta College of Pharmacy to make the written decision public.

The Hearing Tribunal recognized the value of the collaborative work done between the counsels for the College and Mr. Haggag in arriving at the Joint Submission on Sanction. It serves the interests of fairness to Mr. Haggag and the public interest by making the process efficient and expedient.

The Hearing Tribunal accepts the joint submissions on sanction and makes the following orders under section 82 of the *Health Professions Act*.

1. Mr. Haggag's practice permit shall be suspended for a period of 4 months, with 1 month to be served starting on a date acceptable to the Complaints Director and being no later than 30 days after the date of the Hearing Tribunal's written decision, and the remaining 3 months of suspension being held in abeyance for a period of three (3) years and, if there are no further complaints or findings of unprofessional conduct during that period, and Mr. Haggag has paid the costs and fines ordered below, Mr. Haggag will not be required to serve the remaining three (3) months of his suspension.

2. Mr. Haggag shall pay a fine of \$10,000 with respect to Allegation 1 within one (1) year from his receipt of the Hearing Tribunal's written decision.
3. Mr. Haggag shall pay a fine of \$2,000 with respect to each sub-allegation in Allegation 2 for a total of \$10,000.00, within one (1) year from his receipt of the Hearing Tribunal's written decision;
4. Mr. Haggag shall pay a fine of \$5,000 with respect to Allegation 3 within one (1) year from his receipt of the Hearing Tribunal's written decision;
5. Mr. Haggag shall pay a fine of \$2,500 with respect to Allegation 4 within one (1) year from his receipt of the Hearing Tribunal's written decision;
6. Mr. Haggag shall pay a fine of \$2,500 with respect to Allegation 6 within one (1) year from his receipt of the Hearing Tribunal's written decision;
7. For the period of three (3) years from the date of the Hearing Tribunal's decision, Mr. Haggag shall not be permitted to be an owner, proprietor or licensee of a pharmacy.
8. Mr. Haggag shall be responsible for payment of half of the costs, expenses and fees related to the investigation and hearing of this matter to a maximum of \$15,000 within a period of one (1) year from receipt of the Hearing Tribunal's written decision and the statement of costs from the Alberta College of Pharmacy.
9. Payment of the fines and costs ordered will occur in accordance with a reasonable monthly payment schedule as directed by the Hearings Director.
10. Mr. Haggag will provide a copy of the Hearing Tribunal's written decision to the licensee of Alberta Avenue Pharmacy and, for a period of three (3) years, to the licensee of any other pharmacy in which he works as a pharmacist.

Signed on behalf of the Hearing Tribunal by the Chair on June 5, 2019

*[Rick Hackman]*

---

Richard Hackman