

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

BRENDAN IHEJIRIKA

Registration number: 6305

DECISION OF THE HEARING TRIBUNAL

October 5, 2022

I. INTRODUCTION

1. The Hearing Tribunal held a hearing into the conduct of Dr. Brendan Ihejirika. In attendance on behalf of the Hearing Tribunal were Anjli Acharya, pharmacist and chair; Rhonda Bodnarchuk, pharmacy technician; Juane Priest, public member and June MacGregor public, member.
2. In attendance at the hearing were Annabritt Chisholm, legal counsel from Shores Jardine LLP for the Complaints Director and James Krempien, Complaints Director with the Alberta College of Pharmacy (ACP) (the "College").
3. Fred Kozak attended as independent legal counsel for the Hearing Tribunal.
4. The hearing took place in Alberta via Zoom videoconference on May 18, 2022. The hearing was held under the terms of Part 4 of the *Health Professions Act*.
5. Dr. Ihejirika, the investigated member, was not in attendance nor was legal counsel present to represent the member.
6. 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

7. The Notice of Hearing entered into evidence listed the following allegations that were referred to hearing concerning Dr. Brendan Ihejirika:

IT IS ALLEGED THAT, between December 1, 2018 and June 30, 2020, while you were both a registered Alberta pharmacist and the proprietor and owner of Royal Care Compounding Pharmacy (ACP Licence #1868) (the "Pharmacy"), and between December 1, 2018 and June 24, 2020 while you were also the licensee of the Pharmacy, you:

1. Failed to act ethically or honestly in your dealings with TELUS Health when you submitted or allowed for the submission of claims to TELUS Health for:
 - a. 68 prescriptions without being able to provide purchase invoices to support the claims;
 - b. 47 prescriptions in which you prescribed for yourself and your family members without being able to provide documentation or evidence to support that the prescribing was completed on an emergency basis.

2. Failed to create or maintain required and accurate pharmacy records, including when you made claims for 68 prescriptions (out of 203 audited claims) to TELUS Health when there are no records to show sufficient stock was ever received by the Pharmacy in respect to those claims.
3. Prescribed and dispensed medications for yourself that were not for minor conditions, required in an emergency or where another prescriber was not readily available to obtain the prescription, including:
 - a. [REDACTED]; and
 - b. [REDACTED] compounded product.
4. Prescribed and dispensed medications for your immediate family members that were not for minor conditions, required in an emergency or where another prescriber was not readily available, including:
 - a. [REDACTED] for [REDACTED];
 - b. [REDACTED] for [REDACTED];
 - c. [REDACTED] for [REDACTED];
 - d. [REDACTED] for [REDACTED];
 - e. [REDACTED] for [REDACTED];
 - f. [REDACTED] for [REDACTED];
 - g. [REDACTED] for [REDACTED];
 - h. [REDACTED] for [REDACTED];
 - i. [REDACTED] for [REDACTED];
 - j. [REDACTED] for [REDACTED]; and
 - k. [REDACTED] for [REDACTED].

IT IS ALLEGED THAT your conduct in these matters:

- a. Failed to demonstrate the ethical conduct expected and required of an Alberta pharmacist and pharmacy licensee;
- b. Failed to demonstrate the professional judgment required of an Alberta pharmacist and pharmacy licensee;
- c. Breached your statutory and regulatory obligations to the Alberta College of Pharmacy as an Alberta pharmacist and a pharmacy licensee;
- d. Undermined the integrity of the profession; and

- e. Decreased the public's trust in the profession.

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

- Standard 1 and sub-standards 1.1, 1.2 and 1.22 of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Standards 1 and 8 and sub-standards 1.1, 1.2, 8.1(d) and 8.3 of the Standards for the Operation of Licensed Pharmacies;
- Principles 3(4) and 10(2) the ACP Code of Ethics;
- Section 16(3) of the Pharmacists and Pharmacy Technicians Profession Regulation;
- Sections 10(1)(a) and 10(1)(d)(iv) of the *Pharmacy and Drug Act*; and
- Section 12(1) of the Pharmacy and Drug Regulation;

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)(i), 1(1)(pp)(ii), 1(1)(pp)(iii), 1(1)(pp)(xii) of the *Health Professions Act* and misconduct pursuant to the provisions of sections 1(1)(p)(i), 1(1)(p)(ii), and 1(1)(p)(ix) of the *Pharmacy and Drug Act*.

8. As the investigated member, Dr. Brendan Ihejirika, was not in attendance in person or by counsel to admit or deny the allegations, the Hearing Tribunal proceeded as though the allegations were denied.

III. PRELIMINARY MATTERS

9. Ms. Chisholm first called evidence in support of an application to proceed with the hearing in Dr. Ihejirika's absence. Margaret Morley was called upon to provide sworn evidence of the College's efforts to serve Dr. Ihejirika with the Notice of Hearing, as well as the Notice to Attend and Notice to Produce.
10. Ms. Morley testified that she is the Hearings Director for the Alberta College of Pharmacy, and her role includes ensuring parties to Hearing Tribunal proceedings are served with the Notice of Hearing and Notice to Attend the hearing. She carried out that role in relation to this hearing.

Exhibit 1 – “HD SERVICE ATTEMPTS_IHEJIRIKA NOTICE OF HEARING.PDF”

11. Ms. Morley reviewed a document tendered and marked as Exhibit 1 which outlined details of the attempts and steps taken by the College to serve Dr. Ihejirika with the Notice of Hearing, and Notice to Attend, and to inform him of the date, time, and place of hearing, and recommend that he seek legal counsel.
12. On March 9, 2022, Ms. Morley sent an email to Dr. Ihejirika using his email address recorded on the College’s registration record to introduce the new matter before the Complaints Director and to identify availability and legal representation. Ms. Morley said Dr. Ihejirika did not reply to this email.
13. On March 30, 2022, Ms. Morley identified the date for the hearing and prepared the Notice of Hearing package which was sent to Dr. Ihejirika by e-mail with a password protected link to the Notice of Hearing package. The password was sent by email on the same day.
14. Ms. Morley reviewed the ShareFile access log and noted that the documents had not been accessed by Dr. Ihejirika.
15. Ms. Morley also sent a Notice of Hearing package to Dr. Ihejirika by registered mail, including the Notice of Hearing, Notice to Attend and Notice to Produce. Ms. Morley testified that she used Dr. Ihejirika’s home address as shown on his College registration record. It was not claimed.
16. March 31, 2022, Ms. Morley sent another letter by regular mail, and it was returned to the College on May 3, 2022.
17. April 11, 2022, Ms. Morley send an email labeled “high importance” with a flag to hopefully determine whether that e-mail address was still active and get confirmation the email has been received. Ms. Morley received confirmation that the email was received and opened. There was no confirmation that the email was read: only that it was delivered to that address.
18. Ms. Morley also instructed a process server to attend at the address provided to the College by Dr. Ihejirika. The April 12, 2022 Affidavit of Service of the process server, Joe Ramos, indicates initially, upon being personally served, the individual before him at the address on file, confirmed his identity as Dr. Ihejirika. He then denied it when he learned that the envelope he was being given was from the Alberta College of Pharmacy.
19. Ms. Morley confirmed that the Notice of Hearing and date of hearing was also published publicly to the College webpage.

20. Ms Morley attempted to contact Dr. Ihejirika by home phone and cell phone numbers listed with the College. No call was answered, and no messages left were returned.
21. On May 16, 2022, the hearing was moved from an in-person proceeding to a virtual format. Dr. Ihejirika was provided a link to the virtual zoom meeting, but he did not appear in the virtual waiting room on the hearing date. Ms. Morley did acknowledge that there was one observer of the proceedings and confirmed that this individual was not Dr. Ihejirika.
22. Mr. Krempien was also called as a witness on the preliminary application. He testified that he is the Complaints Director for the Alberta College of Pharmacy.

Exhibit 2 was tendered and accepted into evidence by the Hearing Tribunal, and labelled – "STATUTORY DECLARATION OF [REDACTED] [REDACTED] SWORN MAY THE 13TH OF 2022 OF WHICH THE PDF IS ENTITLED "2022-05-13 DETAILED AFFIDAVIT OF SERVICE"

23. Mr. Krempien reviewed Exhibit 2 which outlined the attempts to serve Dr. Ihejirika and a photo used to identify the member.
24. On April 27, 2022, process server [REDACTED] [REDACTED] attended the address of Dr. Ihejirika. The person who answered the door at the address identified themselves as John Johnson. Upon reviewing a photo of the member provided by the College, Ms. [REDACTED] was able to identify that the original person she spoke to, who identified himself as John, was in fact Dr. Ihejirika. She returned to that same address on April 28, 2022 and observed the same individual leaving the garage on premises. She was not able to serve the papers in person but served them by taping them to the door of the residence.

Exhibit 3 - ENTITLED "2022-05-16 RETURNED MAIL" was tendered and accepted into evidence by the Hearing Tribunal

25. On May 16, 2022, the College received a returned envelope which appeared to be the envelope that was taped to Dr. Ihejirika's door by Ms. [REDACTED]
26. Mr. Krempien testified that Dr. Ihejirika has not attended the College offices in person today, at either the reception desk or 11th floor offices.
27. In making submissions on the preliminary application, Ms. Chisholm argued that section 79(6) of the *Health Professions Act* permits the Hearing Tribunal to proceed with the hearing and act or decide on the matter being heard in Dr. Ihejirika's absence if there is proof that he was given a Notice to Attend. Ms. Chisholm submitted that Ms. Morley had served Dr. Ihejirika with the Notice of Hearing and a Notice to Attend as required by section 120(3) of the *Health Professions Act*. In addition, several alternate attempts to serve Dr. Ihejirika were

outlined in the evidence. *The Health Professions Act* provides that a notice required to be given under Part 4 of the Act by a Hearings Director is sufficiently given if given by personal service or sent by certified or registered mail to the person at the person's address shown on the College's register. Ms. Chisholm suggested that notice was in order and the hearing should proceed despite the member's absence.

28. After hearing submissions from Ms. Chisholm, the Hearing Tribunal deliberated in the absence of the parties and determined that Dr. Ihejirika had been properly notified of the hearing date, time, and location and that it would be appropriate to proceed despite his absence. While Dr. Ihejirika has not provided confirmation of receipt of the packages or papers served, the attempts made, and the declarations provided satisfied the Hearing Tribunal that all reasonable attempts had been made to ensure that Dr. Ihejirika was provided notification of the hearing date, time, and location as well as the allegations against him. While Dr. Ihejirika has elected not to respond to any communications, nor provide any confirmation of receipt, the Tribunal is satisfied that Dr. Ihejirika is aware of hearing procedures and was aware of the hearing and has chosen not to attend or participate.

IV. EVIDENCE

29. The following Exhibits were tendered and admitted by the Hearing Tribunal in its consideration of the preliminary application and the allegations detailed in the Notice of Hearing:

Exhibit 1 - "HD SERVICE ATTEMPTS_IHEJIRIKA NOTICE OF HEARING.PDF"

Exhibit 2 - "STATUTORY DECLARATION OF [REDACTED] [REDACTED] SWORN MAY THE 13TH OF 2022 OF WHICH THE PDF IS ENTITLED "2022-05-13 DETAILED AFFIDAVIT OF SERVICE"

Exhibit 3 - ENTITLED "2022-05-16 RETURNED MAIL"

Exhibit 4 - Exhibit Book

Exhibit 5 - DOCUMENT ENTITLED "2021-11-04 PRESCRIPTION CHART (INVESTIGATION REPORT)"

Witnesses called by the College

Witness 1: James Krempien

30. James Krempien, Complaints Director for the College, was again asked to testify, this time as the College's first witness in relation to his investigation of the allegations set out in the Notice of Hearing. Mr. Krempien described the records he collected as part of his investigation and his decision to refer the matter to a hearing. Mr. Krempien's evidence may be summarized as follows:

31. On July 21st, 2021 Mr. Krempien received a letter of complaint arising from an audit of Dr. Ihejirika's old pharmacy Royal Care Compounding Pharmacy (which was now known as Royal Care Mundare Pharmacy), from [REDACTED] manager of pharmacy audit, with Telus Health. The complaint outlined purchase invoice discrepancies for several medications and instances of self-prescribing that he believed did not conform to the generally accepted standards of practice. A complaint investigation file was opened by Mr. Krempien and assigned to Jennifer Mosher, ACP practice consultant.
32. On July 23, 2021 Dr. Ihejirika was notified of the nature of the Telus Health complaint over the phone during a discussion with Mr. Krempien, as well as the process of the investigation and customary timelines. The notice of complaint was received by Dr. Ihejirika on August 15, 2022. Dr. Ihejirika responded to the notice by stating that because he had experienced significant emotional and personal challenges, he would be unable to provide a response to the complaint and that he wished to voluntarily surrender his ACP practice permit.
33. Dr. Ihejirika's pharmacist's practice permit was cancelled as of August 15, 2021 and he was notified that the investigation would be ongoing, and he would be given the opportunity to respond to the investigator once all relevant information had been gathered from Telus Health.
34. On September 20, 2021, Mr. Krempien and Ms. Mosher received the detailed audit reports from Telus Health including correspondence provided by Dr. Ihejirika in response to the audit. Dr. Ihejirika was also provided the opportunity to provide documentation to address issues raised in the complaint during the investigation, but none was received.

Witness 2: Jennifer Mosher Alberta College of Pharmacy as a practice consultant

35. Jennifer Mosher was called to testify. She was an Alberta College of Pharmacy Practice Consultant from 2010 to 2019 and is currently a part-time contract investigator. Ms. Mosher was the primary investigator on this case file. Ms. Mosher reviewed the results of the Telus Health audit of Royal Care Compounding Pharmacy with Dr. Ihejirika. The Telus Audit indicated that Royal Care Compounding Pharmacy received an overall "fail" in its claim errors and financial errors table.
36. Ms. Mosher reviewed Dr. Ihejirika's November 1, 2020 written response to Telus Health outlining the context that supported his prescribing to self and family members for [REDACTED], [REDACTED], and [REDACTED]. The results of the Telus Audit indicate that out of the 203 claims that they audited, 68 prescriptions were processed where the pharmacy or Dr. Ihejirika could not provide invoice documentation. And in terms of pharmacists not allowed to prescribe to self or family members (with the exception of minor conditions, in an emergency, or

when another prescriber is unavailable), of the 203 claims that they audited, 47 were prescribed for himself and for his family members.

37. On October 5, 2021, Ms. Mosher spoke with Dr. Ihejirika, who outlined the challenges he was facing in light of his divorce and mental health. Dr. Ihejirika was provided the opportunity to respond to the complaint. He responded by saying that his caregivers had advised him to “avoid work” and “social situations” and that he was receiving weekly mental health therapy. He indicated to Ms. Mosher that he was not interested in responding to any further questions regarding the investigation.
38. Ms. Mosher wrote a letter summarizing the complaint, investigation timelines and provided Dr. Ihejirika the opportunity to further comment on the investigation. Dr. Ihejirika did not respond. During this time, Ms. Mosher indicated that she did receive an update from Mr. ■ with Telus Health that Telus Health had received reimbursement from the pharmacy with respect to the audit and had provided Dr. Ihejirika the benefit of a doubt when evaluating the context of prescribing for self and family in the final audit.
39. Ms. Mosher reviewed the prescribing events for self and family table in Exhibit 5 and while Telus Health did accept the rational for prescribing for 4 out of 16 events specifically for Dr. Ihejirika’s ■, ACP determined that all 4 of these events were not acceptable prescribing events. The investigation determined that 3 other prescribing events were minor condition prescribing events and all other prescribing events did not meet the standards for prescribing.

V. SUBMISSIONS

40. Based on the information obtained during the investigation of the complaint and contained in the Investigation Report of the complaint, Ms. Chisholm submitted that there was sufficient evidence to conclude on a balance of probabilities that, between December 1, 2018 and June 30, 2020, while he was both a registered Alberta pharmacist and the proprietor and owner of Royal Care Compounding Pharmacy (ACP Licence #1868)(the “Pharmacy”), and between December 1, 2018 and June 24, 2020 while he was also the licensee of the Pharmacy, Dr. Ihejirika:
 1. Failed to act ethically or honestly in his dealings with Telus Health when he submitted or allowed for the submission of claims to Telus Health for:
 - a. 68 prescriptions without being able to provide purchase invoices to support the claims; and
 - b. 47 prescriptions in which he prescribed for himself and his family members without being able to provide

documentation or evidence to support that the prescribing was completed on an emergency basis.

2. Failed to create or maintain required and accurate pharmacy records, including when he made claims for 68 prescriptions (out of 203 audited claims) to Telus Health when there are no records to show sufficient stock was ever received by the Pharmacy in respect to those claims.
3. Prescribed and dispensed medications for himself that were not for minor conditions, required in an emergency or where another prescriber was not readily available, including:
 - a. [REDACTED]; and
 - b. [REDACTED] compounded product.
4. Prescribed and dispensed medications for his immediate family members that were not for minor conditions, required in an emergency or where another prescriber was not readily available, including:
 - a. [REDACTED] for [REDACTED];
 - b. [REDACTED] for [REDACTED];
 - c. [REDACTED] for [REDACTED];
 - d. [REDACTED] for [REDACTED];
 - e. [REDACTED] for [REDACTED];
 - f. [REDACTED] for [REDACTED];
 - g. [REDACTED] for [REDACTED];
 - h. [REDACTED] for [REDACTED];
 - i. [REDACTED] for [REDACTED];
 - j. [REDACTED] for [REDACTED];
 - k. [REDACTED] for [REDACTED].

41. Ms. Chisholm submitted that as the licensee of the Pharmacy, Dr. Ihejirika was expected to ensure that accurate and required pharmacy records were created and maintained in accordance with the Standards for the Operation of Licensed Pharmacies. The absence of invoices to support drug claims submitted to Telus Health, including purchase records of Schedule 1 and 2 drugs received by the Pharmacy, proved that the required Standards were not met.
42. Additionally, as an Alberta Pharmacist with Additional Prescribing Authority, Ms. Chisholm argued that Dr. Ihejirika was only permitted to prescribe in accordance with the Standards of Practice for Pharmacists and Pharmacy Technicians.
43. She submitted that the evidence collected through the investigation demonstrated that Dr. Ihejirika prescribed for both himself and his family

members outside of the parameters permitted by the Standards (i.e., for a minor condition, in an emergency and when another prescriber is not readily available).

44. Finally, Ms. Chisholm submitted that Dr. Ihejirika's actions demonstrate his disregard for the professional and ethical obligations that Alberta pharmacists and licensees are expected to uphold.

VI. FINDINGS

45. Upon review of the exhibits and testimony, the Hearing Tribunal concludes that the allegations in the Notice of Hearing have all been proven on a balance of probabilities, and that the proven allegations amount to unprofessional conduct. The audit evidence and investigation report provide strong support and uncontroverted evidence of the following findings:
46. The Hearing Tribunal supports and finds that Dr. Ihejirika:
- a. Failed to demonstrate the ethical conduct expected and required of an Alberta pharmacist and pharmacy licensee;
 - b. Failed to demonstrate the professional judgment required of an Alberta pharmacist and pharmacy licensee;
 - c. Breached your statutory and regulatory obligations to the Alberta College of Pharmacy as an Alberta pharmacist and a pharmacy licensee;
 - d. Undermined the integrity of the profession; and
 - e. Decreased the public's trust in the profession.
47. With respect to Allegation 1 from the Notice of Hearing, the Hearing Tribunal notes that third-party providers must be able to depend on the accuracy of the claims that are submitted by pharmacists and pharmacies in Alberta. It is a fundamental responsibility of a self-regulating profession that professional services will only be provided in accordance with the requirements of the governing legislation and the standards of practice. The evidence clearly demonstrates that Allegation 1 was proven. The Hearing Tribunal finds the proven conduct amounts to unprofessional conduct.
48. With respect to Allegation 2, the legislative requirements and the standards governing pharmacists and licensees require them to make and maintain adequate and complete records, to enable regulatory bodies like the College to effectively regulate members, consistent with the public interest. As a pharmacy owner and the licensee of a pharmacy, Dr. Ihejirika was obliged to ensure that

the records kept in his Pharmacy were kept in accordance with the Standards for the Operation of Licensed Pharmacies and that he complied with the agreement he had entered into with Telus Health. The Hearing Tribunal finds that the evidence clearly proves Allegation 2, and the proven conduct amounts to unprofessional conduct.

49. With respect to Allegations 3 and 4, the uncontradicted evidence establishes that Dr. Ihejirika prescribed and dispensed prescriptions for himself or his family members that were not for minor conditions, were not required as a result of an emergency, and were not prescribed when another prescriber was not readily available to obtain the prescription. Such conduct amounts to unprofessional conduct.
50. Accordingly, the Hearing Tribunal finds that Dr. Ihejirika breached the following statutes and standards governing the practice of pharmacy:

- Standard 1 and sub-standards 1.1, 1.2 and 1.22 of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Standards 1 and 8 and sub-standards 1.1, 1.2, 8.1(d) and 8.3 of the Standards for the Operation of Licensed Pharmacies;
- Principles 3(4) and 10(2) the ACP Code of Ethics;
- Section 16(3) of the Pharmacists and Pharmacy Technicians Profession Regulation;
- Sections 10(1)(a) and 10(1)(d)(iv) of the *Pharmacy and Drug Act*; and
- Section 12(1) of the Pharmacy and Drug Regulation;


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

51. It is a fundamental responsibility for pharmacists to adhere to the standards of practice and professional code of ethics. While the Hearing Tribunal has empathy for Dr. Ihejirika personal challenges, this does not limit or excuse his professional responsibilities particularly when considering the management of clinical care for at risk individuals in his family. Dr. Ihejirika has years of experience as a pharmacy owner and licensee, has experienced past third-party audits and should have been well aware of his responsibilities in record keeping. He should have known that the clinical risk of providing care to family members outweigh the challenges of seeking care from other unbiased care providers. In breaching those responsibilities, Dr. Ihejirika showed disregard to the foundational standards of professionalism.

VI. ORDERS

52. In light of its findings, the Hearing Tribunal directs the College to serve this decision on Dr. Ihejirika, and requests submissions on appropriate sanctions from the College and Dr. Ihejirika or his legal representative within a timeframe to be determined by the College.

Signed on behalf of the Hearing Tribunal by the Chair on October 5, 2022.

Per: 
Anjali Acharya (Oct 5, 2022 09:40 MDT)

Anjali Acharya, Chair