

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

KAR LEUNG

Registration number: 5266

DECISION OF THE HEARING TRIBUNAL

October 5, 2020

I. INTRODUCTION

The Hearing Tribunal held a hearing into the conduct of Kar Leung. In attendance on behalf of the Hearing Tribunal were Yasir Iqbal, pharmacist, Pat Matusko, public member, and Teryn Wasileyko, pharmacist and chair.

The hearing took place on July 8, 2020 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 and Ms. Leah Macklin, legal counsel representing the Complaints Director, and Kar Leung, Investigated Member. Mr. Leung confirmed he was aware of his right to be represented by legal counsel and chose to represent himself during the hearing. Ms. Tessa Gregson was also in attendance, acting as independent counsel for 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 Hearing Tribunal held a hearing to inquire into the following allegations with respect to Mr. Leung, as set out in the Notice of Hearing, entered as Exhibit 1:

IT IS ALLEGED THAT, between July 1, 2018 and October 21, 2019, while you were a registered Alberta pharmacist at Chief Pharmacy (411 – 19 Street SE, Calgary, AB, T2E 6J7) you:

1. Did not maintain professional liability insurance for the periods of:
 - a. July 1, 2018 to June 30, 2019; and
 - b. July 1, 2019 to October 21, 2019;
2. Breached the professional declaration you made on or about:
 - a. May 31, 2018; and
 - b. May 30, 2019;by not maintaining professional liability insurance while on the clinical pharmacist register; and
3. Practiced approximately 8 hours per week, without professional liability insurance.

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;
- b. Undermined the integrity of the profession; and

- c. Failed to exercise the professional and ethical judgment expected and required of an Alberta pharmacist.

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

- Standard 1 (sub-standards 1.1 and 1.2) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Principles 1(1), 10(1) and 10(2) of the Alberta College of Pharmacy's Code of Ethics;
- Section 13(1) of the Pharmacists and Pharmacy Technicians Profession Regulation;
- Section 40(1) (c) of the *Health Professions 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) 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 Investigated Member, Kar Leung. No witnesses were called to testify.

The following exhibits were entered by agreement of the parties:

- Exhibit 1: Notice of Hearing
- Exhibit 2: Admission of Unprofessional Conduct
- Exhibit 3: Agreed Statement of Facts

Ms. Chisholm proceeded to make submissions on behalf of the Complaints Director to the Tribunal regarding the three documents that had been jointly submitted.

She summarized the documents as follows:

- The Notice of Hearing (Exhibit 1) outlined the allegations of unprofessional conduct brought against Mr. Leung;
- Ms. Chisholm explained the three allegations against Mr. Leung:
 1. He did not maintain professional liability insurance for the periods of July 1, 2018 to June 30, 2019, and July 1, 2019 to October 21, 2019.

2. He breached the professional declarations he made on or around May 31, 2018 and May 30, 2019 by not maintaining professional liability insurance while on the clinical pharmacist register.
 3. He practiced approximately 8 hours per week without professional liability insurance.
- The Admission of Unprofessional Conduct (Exhibit 2):
 - Mr. Leung acknowledges and admits to allegations 1, 2, and 3 in the Notice of Hearing under s. 70 of the HPA.
 - Mr. Leung agrees and acknowledges that his conduct in these matters breached his statutory and regulatory obligations to the Alberta College of Pharmacy, undermined the integrity of the profession, and that he failed to exercise the professional and ethical judgement expected and required of an Alberta pharmacist.
 - Mr. Leung agrees and acknowledges that his conduct breached Standard 1 (sub-standards 1.1 and 1.2) of the Standards of Practice for Pharmacists and Pharmacy Technicians, Principles 1(1), 10(1), and 10(2) of the Alberta College of Pharmacy's Code of Ethics, Section 13(1) of the Pharmacists and Pharmacy Technicians Profession Regulations, Section 40(1)(c), and Sections 1(1)(pp)(ii) and 1(1)(pp)(xii) of the *Health Professions Act*.
 - Mr. Krempien acknowledges that Mr. Leung was fully co-operative with the investigation, hearing process, and in developing the Admission of Unprofessional Conduct.
 - Mr. Leung waived his opportunity to receive legal counsel prior to entering into the Admission of Unprofessional Conduct and he understands that if the Hearing Tribunal accepted the Admission, the Tribunal may proceed to issue orders under s. 82(1) of the HPA.
 - The Agreed Statement of Facts (Exhibit 3):
 - Mr. Leung was, at all relevant times a registered member with the College and on the clinical pharmacist register and he practiced as a pharmacist at Chief Pharmacy in Calgary.
 - On October 21, 2019 Mr. Leung was notified by e-mail that he had been randomly selected for a professional declaration audit. As part of the audit he was asked to submit his current professional liability insurance coverage policy for the 2019/2020 registration year, as well as other information.
 - On October 22, 2019 Mr. Leung submitted his insurance documents for the 2019/2020 practice year to the College, along with the other documents that had been requested as part of the audit. At this time Dr. Timanson, the Competence Director for the College, noted that Mr. Leung's insurance certificate for 2019/2020 only provided coverage from October 22, 2019 to July 1, 2020.

- On October 29, 2019, Mr. Leung was also asked by the College to submit his insurance for the 2018/2019 practice year. Mr. Leung stated that he did not have access to that policy and asked if the audit was only for the current year or if it included past years as well. On October 29, 2019 the College responded that the audit was for the 2019/2020 year which was July 1, 2019 to June 30, 2020, however, since the insurance policy Mr. Leung sent them started on October 22, 2019, in order to satisfy the audit, Mr. Leung would have to submit the insurance document from the previous year in order to show coverage from July 1, 2019 to October 21, 2019. Mr. Leung responded that he had forgotten to renew his insurance for July 1, 2019 until he was notified by the audit and that he would obtain insurance right away.
- On November 8, 2019 Mr. Leung received a second e-mail from the College requesting submission of his current professional liability insurance, CPR, and first aid certificates. Mr. Leung responded the same day indicating that for the period of July 1, 2019 to October 21, 2019 that his professional corporation, The Control Group, had been covered under a separate insurance. He submitted documents from Peace Hills Insurance Corporation for general liability insurance for 10 million dollars for September 1, 2015 to September 1, 2020.
- Each year when they are renewing their registration, every pharmacist is required to sign a professional liability insurance declaration to declare that they have valid professional liability insurance. Pharmacists are advised that some of the consequences of failing to have valid professional liability insurance include having their practice permit cancelled.
- Based on the information the College had, the Complaints Director began his investigation by sending a letter to Mr. Leung on November 29, 2019. He requested that Mr. Leung provide him with a written response to the complaint alleging that;
 - he breached the professional declarations he made in May 2018 and 2019 when renewing his practice permit in that he did not maintain valid professional liability insurance while on the clinical register, and
 - while on the clinical register from July 1, 2018 to on or about June 30, 2019, and then again from July 1, 2019 to on or about October 21, 2019 he practiced as a pharmacist without professional liability insurance.The Complaints Director also requested a list of Mr. Leung's employment history as a pharmacist
- On December 16, 2019 Mr. Leung's responded to the complaint by email and indicated that he agreed with the College's findings so far and had no disputes about the case. He also admitted that he worked 19 full shifts at Chief Pharmacy between June and October of 2019 and dispensed approximately 40 prescriptions during that time period.

- On January 9, 2020 Mr. Krempien met with Mr. Leung at Chief Pharmacy. During this interview, he admitted to providing false professional declarations on May 31, 2018 and May 30, 2019 and admitted his failure to maintain professional liability insurance from July 1, 2018 to June 30, 2019, and also between July 1, 2019 and October 21, 2019 while he was on the clinical register. He admitted that between July 1, 2018 and October 21, 2018 he worked approximately 8 hours per week as a pharmacist at Chief Pharmacy without professional liability insurance and that his failure to have the necessary insurance was an unintentional error on his part. In addition to the 10 million dollars of general liability insurance that Mr. Leung held for his company, he also believed that he held professional liability insurance through Encon between July 1, 2018 and June 30, 2019. On January 10, 2020, Mr. Leung emailed Mr. Krempien to confirm that he had contacted Encon insurance and had learned that he did not have insurance for the 2018 to 2019 licensing year.
- During the relevant period, the College communicated with its members as to the importance of maintaining current liability insurance and fulfilling professional declarations, including highlighting recent hearing tribunal cases where members had failed to uphold their declarations and their conduct had been deemed to constitute unprofessional conduct.
- Mr. Leung's Admission of Unprofessional Conduct (Exhibit 2) and the Agreed Statement of Facts (Exhibit 3) signed by Mr. Leung and Mr. Krempien matched the allegations in the Notice of Hearing (Exhibit 1). Mr. Leung agreed and acknowledged that his conduct breached the HPA and the College's Standards of Practice and the Code of Ethics.

Ms. Chisolm stated the Tribunal's task was to determine whether the allegations in the Notice of Hearing had been factually proven, and if so whether the proven allegations constituted unprofessional conduct. She urged the Tribunal to accept Mr. Leung's admission of unprofessional conduct and submitted the Complaints Director had met the onus of proving its case on a balance of probabilities. She advised the facts were not in dispute and that the evidence established the allegations in the Notice of Hearing.

Ms. Chisholm submitted that Mr. Leung's failure to maintain his professional liability insurance and fulfill his professional declarations was unprofessional conduct. She emphasized that pharmacists have a positive statutory and regulatory obligation to maintain professional liability insurance and to uphold their professional declarations. She advised the College takes the requirements and obligations seriously and the failure to uphold them warranted a finding of unprofessional conduct.

Ms. Chisholm advised that Mr. Leung had taken responsibility and admitted that his conduct should be found to be unprofessional. She referenced the relevant portions of the statutory authorities that govern the practice of pharmacy, including s. 40(1)(c) of the HPA, Section 13(1) of the Pharmacists and Pharmacy Technicians Professional Regulations, Standard 1.1 and 1.2 from the Standards of Practice, and Principle 1(1) and Principles 10 (1) and 10 (2) from the Code of Ethics. She explained that the HPA defines unprofessional conduct as a contravention

of the HPA, a standard of practice or the Code of Ethics and that section 40(1)(c) of the HPA confirms that an application for a practice permit requires evidence of professional liability insurance. Ms. Chisholm advised Mr. Leung's conduct was unprofessional conduct as he contravened s. 40 of the HPA, the Standards of Practice and the Code of Ethics.

Ms. Chisholm concluded her submissions by discussing the obligation of self-regulating bodies to serve and protect the public, and that the maintenance of adequate professional liability insurance was part of this protection. Professional liability insurance allows the public to be assured that a pharmacist's actions would be covered regardless of where they are practicing. Although Mr. Leung's actions were not deliberate, his conduct showed a lack of attention to his professional obligations and professional declarations. The College relies on a member's accuracy when making professional declarations and it is a fundamental responsibility of a professional that their declarations can be trusted to be true. In Mr. Leung's case, a period of approximately 16 months without professional liability insurance represents a lengthy period of time where if any harm resulting from his practice occurred to patients, there would have been no professional liability insurance coverage in place to protect them.

For clarification, the Hearing Tribunal asked both parties if they could comment on the differences between corporate or general liability insurance and professional liability insurance, and reasons why it may be necessary for a pharmacist to carry both types of insurance. Ms. Chisholm explained that under the HPA *and* Regulations, an individual pharmacist is required to hold professional liability insurance personally – aside from any corporate coverage that may also be in place. This personal professional liability insurance covers actions arising from harm due to the individual pharmacist's actions regardless of their place of employment and is therefore separate from the general liability insurance carried by a pharmacist's employer. Ms. Chisholm clarified for the Tribunal that while holding corporate general liability insurance was not an obligation of an employer under the Act, there was a statutory and regulatory obligation for individual pharmacists to hold professional liability insurance. Mr. Leung agreed with Ms. Chisholm's submissions.

Mr. Leung elected to not provide any submissions and it was noted that he was fully cooperative with the College throughout the entire process. Mr. Leung's case was then closed, and the members of the Hearing Tribunal caucused to review the evidence.

IV. FINDINGS

The members of the Hearing Tribunal accepted Mr. Leung's admission of unprofessional conduct and concluded the allegations were proven and that the conduct was unprofessional conduct.

In determining that the allegations were proven, and that Mr. Leung's admission should be accepted, the Hearing Tribunal carefully considered the Agreed Statement of Facts entered into by the parties, and the Admission of Unprofessional Conduct. After reviewing the evidence, the Admission of Unprofessional Conduct, and the Agreed Statement of Facts, the Hearing Tribunal found that the allegations detailed in the Notice of Hearing were factually proven on a balance of probabilities and that Mr. Leung's conduct constituted unprofessional conduct.

The reasons for the Hearing Tribunal's findings are as follows:

- The evidence demonstrated that Mr. Leung did not maintain professional liability insurance from July 1, 2018 to June 30, 2019, and also between July 1, 2019 and October 21, 2019 while he was on the clinical pharmacist's register.
- The evidence established that Mr. Leung's insurance certificate for 2019/2020 showed that his coverage was only from October 22, 2019 to July 1, 2020. Mr. Leung obtained insurance coverage for 2019/2020 after he received notice of the College's audit.
- Mr. Leung admitted that he was on the clinical register from July 1, 2018 to June 30, 2019, and then again from July 1, 2019 to October 21, 2019 and practicing as a pharmacist without professional liability insurance.
- The evidence established that Mr. Leung breached his professional declarations of May 31, 2018 and May 30, 2019 by not maintaining professional liability insurance while on the clinical pharmacist register as he had declared.
- The evidence demonstrated that Mr. Leung practiced as a pharmacist approximately 8 hours per week at Chief Pharmacy between July 1, 2018 and October 21, 2019 without having valid insurance.
- Section 40(1)(c) of the HPA and Section 13 of the Pharmacists and Pharmacy Technicians Profession Regulation state that regulated members must possess professional liability insurance in order to obtain a practice permit. This is necessary to protect the public when receiving pharmacy services. The HPA outlines that contraventions of the HPA and other legislation applicable to the practice of the profession constitute unprofessional conduct.
- Professional liability insurance is an important part of the protection of the public because it means that the public is ensured that the actions of a pharmacist are covered. It is also not practical for members of the public to verify that individuals with whom they interact in a pharmacy have liability insurance.
- Mr. Leung's conduct disregarded both his regulatory obligation to the College and his ethical obligation to his patients and the public to ensure he maintained professional liability insurance while on the clinical register.
- Without the audit Mr. Leung's failure to hold insurance in accordance with the HPA and the Pharmacist and Pharmacy Technicians Profession Regulation may not have been identified.
- Mr. Leung practiced for approximately 16 months without insurance and he worked approximately 8 hours a week during this period. A significant number of members of the public were exposed to risk as a result of Mr. Leung's actions.

- Pharmacists are a self-regulated profession and one of the foundations of a self-regulating profession is that their members are diligent and trustworthy in their practice to ensure public safety. Breaches of these requirements, even if unintentional, have the potential to harm the public, as well as the reputation of pharmacy both within the profession as well as within society as a whole.
- The Alberta College of Pharmacy's Code of Ethics states in Principle 1 (1) that a pharmacist will act in the best interest of each patient. It states in Principle 10 (1) that a pharmacist will comply with the letter and spirit of the law and in 10 (2) that a pharmacist is honest in their dealings. Mr. Leung did not act in the best interests of his patients when he did not have valid insurance. This insurance is an expectation for all regulated members, and it ensures the actions of all pharmacists. Mr. Leung was not honest with the College when he did not comply with his declaration and, as discussed, he did not comply with the HPA and the Pharmacists and Pharmacy Technicians Profession Regulation.
- Every year the College relies on the accuracy of professional declarations that are made when registered pharmacists renew their Practice Permit. It is a fundamental expectation that when a pharmacist completes their professional declaration, that the statements declared can be counted on to be true. False declarations, due to errors in judgement, lack of attention, or any other reason; deliberate or not, have the capacity to harm the public and are therefore taken very seriously.
- Mr. Leung's failure to maintain professional liability insurance was in violation of the HPA, section 40(1)(c), and Section 13 of the Pharmacists and Pharmacy Technicians Profession Regulation. Mr. Leung's breaches of both his May 2018 and May 2019 professional declarations were in breach of the Alberta College of Pharmacy's Code of Ethics Principles 10 (1) and (2).

V. SUBMISSIONS ON ORDERS

After the Hearing Tribunal deliberated, the Tribunal advised the parties that it accepted the Admission of Unprofessional Conduct by Mr. Leung and determined that the conduct admitted to 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 Sanctions and Authorities (Exhibit 4). The parties jointly proposed the following sanctions:

1. Mr. Leung shall receive a written reprimand of which the Hearing Tribunal's written decision shall serve as.
2. Mr. Leung shall pay a fine of \$1,000. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director. The fine shall be paid in full within 12 months of the date Mr. Leung receives a copy of the Tribunal's written decision.

3. Mr. Leung shall be responsible for payment of all costs of the investigation and hearing to a maximum of \$7,000. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director. The costs shall be paid in full within 24 months of the date of Mr. Leung receives a copy of the 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: to protect the public, to maintain the integrity of the profession, and to ensure that imposed sanctions strike a balance between public protection and maintaining professional integrity, while at the same time being fair to the member, and finally deterrence for other members.

Ms. Chisholm reviewed the factors referenced in *Jaswal vs. Medical Board (Newfoundland) (1996)*, 42 Admin L.R. (2d) 233, which should be considered when determining sanctions and how these factors should apply in this case:

- *Nature and gravity of proven allegations/degree to which the conduct was clearly regarded as unprofessional conduct:* Mr. Leung failed to uphold two statutory professional declarations on two separate licensure years and did not maintain professional liability insurance for approximately 16 months spanning two permit years. This posed a risk of harm to the public and was serious enough to constitute unprofessional conduct. Nonetheless, the conduct was on the lower end of the spectrum of unprofessional conduct and was not as serious as a false claim to a third-party insurer or a boundary violation.
- *Age and experience of the offender:* Mr. Leung has been registered with the College since 1996. With over 20 years of experience, he ought to be familiar with his regulatory and statutory obligations; hence this is not a mitigating factor.
- *Previous character of a member and prior findings of unprofessional conduct:* Mr. Leung has no previous history of complaints with the College after more than 20 years of experience; this is a mitigating factor in his favor.
- *Number of times the offence occurred:* Mr. Leung made two false professional declarations; the first in 2018, and again in 2019, which amounted to approximately 16 months where he did not have professional liability insurance, while working 8 hours per week. This represents a breach of his professional declarations on many instances over a prolonged period of time. This was not a single instance or an insignificant amount of time that the public was not protected. Notably, he only obtained the required insurance when prompted by the audit.
- *Role of the member in acknowledging what occurred:* This is a mitigating factor in this case. Once Mr. Leung was made aware of the situation, he admitted to his error, and took steps to remedy his error and obtained the required insurance. Mr. Leung also admitted the allegations as part of the hearing.

- *Whether the member has suffered other serious financial or other penalties:* No evidence was presented that suggested that this factor applied to the case.
- *The presence or absence of any mitigating circumstances:* Mr. Leung admitted his error and remedied the error, which showed his understanding of the seriousness of the unprofessional conduct. He was cooperative with all aspects of the College's investigation.
- *The need to promote deterrence:* This means the sanctions should be such that Mr. Leung does not repeat his conduct, and that the sanctions send a message to others in the profession so that similar conduct does not arise and so that they understand the importance of being diligent in understanding, declaring and then following through on what is required when they make a professional declaration. This goes back to the members of the profession knowing what they need to do as members of a self-regulating profession. Self-regulating profession and the framework that upholds it would fail if members cannot be trusted to comply with what is expected of them. They must be trusted to do what they say and uphold what they say they will do. Specific deterrence to Mr. Leung is served because he acknowledged his mistake, will be punished for doing so, and will take steps to not repeat this mistake in the future. With regards to general deterrence of the larger membership, it is important that the sanctions imposed, remind members of the expectation of being diligent in their understanding of professional declarations, ensuring that members follow through on the requirements of professional declarations, and are aware of the consequences of failing to do so. A message should be sent that appropriate sanctions will be imposed if obligations and requirements of regulated members are not upheld.
- *The need to maintain public confidence in the integrity of the profession:* Self-regulating professions exist at the desire of the government and the public, and hence need to demonstrate that the profession takes the HPA and the Regulations seriously and sanctions members accordingly for breaches of professional obligations and requirements.
- *The range of sanctions in other similar cases:* The Joint Submission on Sanctions and Authorities (Exhibit 4) contained five hearing tribunal decisions from 2019 where pharmacists had failed to uphold a professional declaration and had practiced without professional liability insurance for approximately three to four months, including:
 1. Decision of the Hearing Tribunal of the Alberta College of Pharmacy in the matter of Pashupati Raut dated May 29, 2019;
 2. Decision of the Hearing Tribunal of the Alberta College of Pharmacy in the matter of Harsh Shah dated August 8, 2019
 3. Decision of the Hearing Tribunal of the Alberta College of Pharmacy in the matter of Doreen Chow dated August 14, 2019
 4. Decision of the Hearing Tribunal of the Alberta College of Pharmacy in the matter of Tadesse Kene dated September 23, 2019

5. Decision of the Hearing Tribunal of the Alberta College of Pharmacy in the matter of Ebenezer Asare dated September 25, 2019

Ms. Chisholm outlined the sanctions imposed in the decisions and explained that the agreed penalties outlined in the Joint Submission on Sanctions in Mr. Leung's case mirrored four out of five of these decisions, where the members received a reprimand, a \$1,000 fine, and paid the costs of the investigation and hearing, which were capped at \$7,000 and paid within 24 months on a schedule acceptable to the Hearings Director. Ms. Chisholm noted that the outlier among these past decisions was the case of Tadesse Kene, where the costs of the investigation and hearing were capped at \$10,000 rather than \$7,000, due to adjournments sought by the member.

Ms. Chisholm submitted a key difference between Mr. Leung's case and the others was that Mr. Leung made two false declarations over a period of two years and practiced without professional liability insurance for approximately 16 months during those years; whereas the other cases involved only one false declaration and one year where insurance lapsed for a 3 or 4 month period of time. Ms. Chisholm explained that despite this difference, the College sought similar penalties in the case of Mr. Leung because the audit was the first time that his conduct was brought to his attention and this was the first time that he had been called before a Hearing Tribunal to address the misconduct.

Based on all the factors, Ms. Chisholm submitted the sanctions were appropriate and fair.

Ms. Chisholm also discussed the cases of *R v Anthony Cook*, 2016 SCC 43 and *Rault v Law Society of Saskatchewan*, 2009 SKCA 81 which indicate that joint submissions on sanctions should be given deference by Hearing Tribunals as they show cooperation between both parties to reach an agreement on penalties. She explained that should the Hearing Tribunal stray from the Joint Submission on Sanctions, that the legal test for this action is a high bar; meaning that the proposed sanctions would have to be found to be drastically against the public interest in order for the agreed sanctions to be rejected by the Hearing Tribunal.

Mr. Leung made no submissions on sanction.

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

1. Mr. Leung shall receive a written reprimand of which the Hearing Tribunal's written decision shall serve as.
2. Mr. Leung shall pay a fine of \$1,000. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director. The fine shall be paid in full within 12 months of the date Mr. Leung receives a copy of the Tribunal's written decision.

3. Mr. Leung shall be responsible for payment of all costs of the investigation and hearing to a maximum of \$7,000. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director. The costs shall be paid in full within 24 months of the date of Mr. Leung receives a copy of the Tribunal's written decision.

The Hearing Tribunal carefully considered the submissions by Ms. Chisolm with respect to the deference that must be exercised when considering a Joint Submission on Sanctions. The cases referred to, establish that when a joint submission is presented, the Hearing Tribunal should exercise deference and should not reject or vary it unless there is good reason to do so.

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 similar cases, Mr. Leung's significant experience as a pharmacist and his lack of previous discipline history, the seriousness of Mr. Leung's breach of his declarations which occurred on two separate occasions, the length of time he failed to maintain professional liability insurance which was approximately 16 months, and Mr. Leung's admission and cooperation with the College.

The Hearing Tribunal agreed that the proposed orders were appropriate having regard to the factors that are relevant in assessing sanction in the professional discipline context. Specifically, the sanctions would deter Mr. Leung and the profession at large from similar unprofessional conduct in the future. They also serve the public's interest and uphold the integrity of the profession.

Signed on behalf of the hearing tribunal by the Chair on October 5, 2020

Per: 
[Teryn Wasileyko \(Oct 5, 2020 09:13 MDT\)](#)

Teryn Wasileyko