

ALBERTA COLLEGE OF PHARMACISTS

IN THE MATTER OF  
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING REGARDING  
THE CONDUCT OF **Connie Orbeck**

**DECISION OF THE HEARING TRIBUNAL**

## **I. INTRODUCTION**

The Hearing Tribunal held a hearing into the conduct of Connie Orbeck. In attendance on behalf of the Hearing Tribunal were Cathy Biggs (the Chair), Peter Van Bostelen (Public Member), Penny Thomson and Peter Fenrich (herein known as “The Tribunal”).

The hearing took place on August 23<sup>rd</sup>, 2010 at the Alberta College of Pharmacists, 1200, 10303 Jasper Ave., Edmonton, Alberta. The hearing was held under the terms of Part 4 of the *Health Professions Act*.

In attendance at the hearing were David Jardine representing the Alberta College of Pharmacists (the “ACP”), Katrina Haymond, independent counsel for the Hearing Tribunal and Connie Orbeck. Ms. Orbeck was not represented by legal counsel.

There were no objections to the composition of the Hearing Tribunal.

## **II. ALLEGATIONS**

IT IS ALLEGED THAT Ms. Orbeck:

1. failed to properly produce the two reference texts noted in the June 10, 2009 Acadia-Fairview Pharmacy inspection within the time limit imposed in the final direction from Mr. Kalinka and only provided the proof of purchase of these texts after the matter was referred to the Complaints Department.
2. continued to operate a pharmacy from June 2009 to March 2010 without all of the required reference texts. This deficiency and the statements that were made that there is no value in having ready access to these texts in a pharmacy indicates a potential detriment to the public by failing to keep a pharmacy reference library that would enable her to provide current drug information to her patients and other health professionals.
3. did not conducted herself in a professional manner and have demonstrated a pattern of ungovernability with regards to the authority of the Alberta College of Pharmacists in that:
  - a. was unresponsive to the letters issued by Mr. Kalinka on September 2, 2009 and February 2, 2010;
  - b. was unresponsive to the direction provided by Mr. Kalinka in his October 7, 2009 follow-up visit in which he required her to either correct the text deficiency by October 15, 2009 or proceed with closing the pharmacy;

- c. although granted two extensions to comply with the reference texts deficiency, did not finally correct this deficiency until a formal complaint investigation was initiated;
- d. had still not provided a declaration of correcting the six other unsatisfactory conditions noted in the June 10, 2009 inspection as of March 31, 2010 when a further request was made by Shao Lee, ACP Professional Practice Director, for a reply regarding these deficiencies;
- e. on March 31, 2010 signed and faxed back the Pharmacy Operations Assessment Reply Form on which was declared that "The above mentioned conditions have been corrected as of this date: Mar. 31/10";
- f. on April 21, 2010 Vic Kalinka and Randy Frohlich, ACP Professional Practice Consultants, attended the pharmacy to observed whether the outstanding deficiencies had been corrected and found that the following deficiencies were still outstanding contrary to the signed declaration you had provided:
  - 1. Transaction records for new prescriptions and refills are not complete
  - 2. Policies/procedures relating dispensary operations, drug error management and collection use and disclosure of health information have not been developed
  - 3. Compounded Prescriptions – Connie does not record the lot numbers and expiry dates of ingredients used in preparing compounds

The consultants also noted that the two new pharmacy reference texts that were ordered and confirmed receipt of were still in the delivery box unpacked;

- g. this matter is the :
  - i. tenth formal investigation into her conduct since 1994;
  - ii. seventh formal investigation into her conduct since 2000;
  - iii. fourth matter pertaining to her conduct that is being referred to a hearing;
  - iv. exact same issue pertaining to the persistent reluctance to maintain the required pharmacy library that was finally resolved through an Investigating Tribunal hearing and

an Appeal to the Council of the College in 2006 (ACP Complaint File #03-02); and

- v. shows ongoing efforts to conceal information or misinform the College regarding deficiencies in the pharmacy.

IT IS FURTHER ALLEGED THAT the continued and blatant manner in which Ms. Orbeck refused to comply with the directions of the College in these matters notwithstanding the prior discipline proceedings in relation to the same type of conduct demonstrate:

- Your disregard for the authority under which you operates as a pharmacy licensee;
- Your pattern of ungovernability as a pharmacist and licensee;
- Your lack of concern for the health and welfare of patients at Acadia-Fairview Pharmacy, and
- Your ongoing pattern of misleading the ACP by
  - a. offering reasons for non-compliance and then hoping the matter will disappear if there is no response to the College; or
  - b. making a false declaration to the College that she has remedied the outstanding deficiencies from a practice visit when the deficiencies have not been remedied.

IT IS ALLEGED THAT Ms. Orbeck's conduct constitutes a breach of the following statutes, regulations, and standards governing the practice of pharmacy:

- Sections 4, 5, 38, 39, 40, 41, 61, 63, 64, 73 and 78 of the Standards for Operating a Licensed Pharmacy;
- Sections 1.1, 1.2, 1.3, 10.8(a) and 18 of the Standards for Pharmacist Practice;
- Sections 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii), and 1(1)(pp)(xii) of the *Health Professions Act*;
- Section 1(p)(ii) and 1(p)(ix) of the *Pharmacy and Drug Act*;
- Principles I, IX, and X of the ACP Code of Ethics Bylaw.

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

### **III. PRELIMINARY MATTERS**

Ms. Orbeck raised a preliminary objection to the hearing proceeding. Ms. Orbeck stated that she had closed her pharmacy and requested retirement status, and therefore will no longer be practicing. Ms. Orbeck stated that she has dealt with health concerns and will receive no monetary compensation after closing her business. Mr. Jardine stated that the hearing should proceed given that the Hearing Tribunal had granted an adjournment sought by Ms. Orbeck previously, and in doing so, had ordered the hearing to proceed. The ACP argued that, pursuant to s. 54(2), the Hearing Tribunal had the authority to proceed, and practically, voluntary resignation should not be a way to circumvent the disciplinary process. Should Ms. Orbeck decide to be reinstated as a clinical pharmacist it is important that all unacceptable conduct be dealt with and become a matter of public record.

The Tribunal deliberated and determined that the hearing would proceed in accordance with s. 54(2) of the Health Professions Act ("HPA") While Ms. Orbeck has requested a change in status, this does not mean that her conduct should not be dealt with under the HPA.

The Tribunal questioned the admissibility of evidence with respect to g (i-iii) of the Notice of Hearing that concerns previous allegations brought forward against Ms. Orbeck. Mr. Jardine argued that this revealed a course of conduct which demonstrates a pattern of ungovernability and, therefore, unprofessional conduct. Ms. Orbeck stated that including these allegations as part of the Notice of Hearing was unfair as the Tribunal did not have full knowledge regarding the circumstances of the matters and that these matters should only be considered during a decision of penalty if necessary. After deliberation the Tribunal found that with respect to Section g (i & ii) of the Notice of Hearing no evidence would be introduced. With respect to Section g (iii), the Tribunal would admit evidence in relation to this matter, but would give it the appropriate weight.

Ms. Orbeck stated on the record that she does not deny the allegations (Transcript p. 18) and that the allegations are well founded (Transcript p. 29) although she did not acknowledge that this amounted to unprofessional misconduct.

### **IV. EVIDENCE**

The ACP called two witnesses at the hearing, James Krempien, Complaints Director of the ACP, and Vic Kalinka. In addition, a number of exhibits were entered.

Ms. Orbeck did not provide sworn testimony, but made an opening statement and closing submissions in support of her position.

The evidence presented on behalf of the ACP and submissions presented by Ms. Orbeck established that:

Mr. Kalinka, the ACP Pharmacy Practice Consultant, finished a pharmacy consultation at Acadia-Fairview Pharmacy on June 10, 2009 and directed Ms. Orbeck to correct the following issues (hereinafter referred to as the "Deficiencies"):

- i) Creation of transaction records for all prescriptions with handwritten initials of the pharmacist.
- ii) Implement a Policy and Procedure Manual including Dispensary Operations, Drug Error Reporting and Collection, Use and Disclosure of Health Information.
- iii) Add prescription number and date to compliance packaging.
- iv) Record lot numbers and expiry dates for all compounded prescriptions.
- v) Fridge thermometer.
- vi) Obtain current editions of a therapeutic text and Martindales.
- vii) Secure back up daily.

The Pharmacy Operations Assessment Reply Form was dated June 10, 2009 and was required to be signed and dated by the licensee and returned to the ACP in 30 days.

A letter was sent to Ms. Orbeck on September 2, 2009 asking for the signed Pharmacy Operations Assessment Reply Form (Exhibit 3, Tab B2).

Ms. Orbeck stated she was uncertain about the future of the pharmacy and was given an extension until October 15, 2009 to correct the Deficiencies.

Vic Kalinka visited Acadia Fairview Pharmacy on October 7, 2009 at which time he reminded Ms. Orbeck that the deadline for correcting the deficiencies was October 15, 2009. He specifically reminded her of the need to order current editions of textbooks (Exhibit 3, Tab B4).

Vic Kalinka visited Acadia Fairview Pharmacy again on January 28, 2010 to see if the required textbooks were ordered. They had not been ordered as of this date.

A further extension was given to Ms. Orbeck until February 15, 2010 to comply. This was reiterated in a letter sent to Ms. Orbeck dated February 2, 2010 (Exhibit 3, Tab B7).

As of February 19, 2010 Jim Krempien had not received proof of purchase of the textbooks or a signed copy of the Pharmacy Operations Assessment Form.

A letter was sent to Ms. Orbeck on February 22, 2010 from Jim Krempien informing her that a complaint had been brought forward by Shao Lee, Professional Practice Consultant (Exhibit 3, Tab B11).

On February 26, 2010 Ms. Orbeck requested a copy of the recommended reference list from Toni Bos, Registration Administrator, ACP. A copy of the recommended

references were provided to her by Toni Bos, Registration Administrator, on February 26, 2010 (Exhibit 3, Tab B13).

On March 11, 2010 Ms. Orbeck faxed a copy of an invoice to the ACP showing that she had ordered the required textbooks. (Exhibit 3, Tab B14).

On March 17, 2010 Ms. Orbeck sent a letter to Jim Krempien, dated March 13, 2010 (Exhibit 3, Tab B15), stating that the textbooks had been ordered and asking that the matter of the complaint be concluded as the delay in responding had been due to health issues, increased rent and possible closure of her business.

On March 31, 2010 Ms. Orbeck faxed a signed copy of the Pharmacy Operations Assessment Form to the ACP (Exhibit 3, Tab C3). The ACP understood that this meant that the deficiencies identified by Vic Kalinka on June 10, 2009 had been corrected.

On April 21, 2010 Vic Kalinka and Randy Frolich visited Acadia Fairview Pharmacy to follow up on the results of the signed Pharmacy Operations Assessment Form. According to Mr. Kalinka the following deficiencies were still outstanding:

- i) Transaction records were not complete.
  - ii) Policies and procedures for dispensary operations, drug error management and use and disclosure of health information were not developed.
  - iii) Lot numbers and expiry dates of compound ingredients were not recorded.
- The pharmacy textbooks had arrived at the pharmacy but were still sealed in the box they had been shipped in.

## **V. SUBMISSIONS**

Mr. Jardine submitted the following for consideration:

There are two obligations that the ACP must establish when it alleges unprofessional conduct. First is to establish the fact that the events occurred through the evidence provided and the second is to establish whether the events constitute unprofessional conduct.

Ms. Orbeck has a history of ungovernability which has been established by prior cases in 2004 and 2005. One of those cases involved the lack of current required textbooks available in the pharmacy.

The same case required a second investigation into the conduct of Ms. Orbeck as she failed to comply with the orders set out by the Investigating Committee. In a letter dated June 30, 2004 the Investigating Committee granted Ms. Orbeck a conditional certificate until she had demonstrated her competence under the conditions set out in the letter.

In 2005 Ms. Orbeck was investigated for practicing pharmacy from her home while moving her business to another site. The ACP was not notified that the original pharmacy was closed. The hearing took place in 2005 but it was regarding conduct taking place in 2000 and 2001.

Mr. Jardine stated that this pattern of noncompliance is the reason why this third matter was important to pursue. This pattern also establishes Ms. Orbeck's ungovernability in the profession of pharmacy through her inability to acknowledge the authority of the ACP by not following through with conditions set to regulate the profession.

Mr. Jardine submitted that the ACP sees this as unprofessional because members of a self-regulated profession should know that they are required to comply with the standards, regulations and legislation governing the profession. In order to safe guard the public the ACP must be assured that it can regulate its members.

The ACP must also be able to trust that its members are being truthful when they certify that requirements have been met.

Ms. Orbeck submitted the following for consideration:

During the matter investigated in 2004, which led to the REPORT of the Investigating Committee dated April 21, 2004, Ms. Orbeck suffered a myocardial infarct and was out of work for 8 months. It was during this time that the matter regarding the textbooks was brought forward. Ms. Orbeck was found to have failed to keep her reference library up to date.

The substantial increase in rent from her landlord made the decision to purchase new textbooks difficult as Ms. Orbeck was unsure whether she would still be operating her business on a month to month basis.

The template that ACP created for the policy and procedure manual was not made available until January 26<sup>th</sup>, 2010 and therefore was not available to her.

Textbooks are an out of date medium for information and access to more timely information is required to protect the public.

Ms. Orbeck tended to work solo and felt that she completed the majority of her transaction records satisfactorily and as specified by the ACP.

Mr. Jardine then submitted the following:

Firstly, online subscriptions are considered acceptable resources as an alternative to textbooks and are more easily updated. Secondly, had there not been other circumstances that forced Ms. Orbeck to close her pharmacy the

Tribunal would be dealing with the same matter but with a pharmacy open for business.

## **VI. FINDINGS**

It has been alleged that Ms. Orbeck's conduct constitutes a breach of the statutes, regulations, and standards governing the practice of pharmacy. The Tribunal considered each allegation separately and reviewed the evidence via a teleconference on September 9, 2010. Members attending were Cathy Biggs, Chair, Peter Fenrich, Penny Thomson and Peter Van Bostelen.

### **a) Allegation #1 – Failure to Produce the Reference Texts within the Prescribed Time**

The evidence presented demonstrated that Ms. Orbeck was informed by Vic Kalinka on June 10, 2009 of a number of deficiencies, including the requirement to order current editions of a several reference texts, including Martindale's and a therapeutic text. Ms. Orbeck was advised that she must comply by remedying the deficiency within 30 days.

Ms. Orbeck did not comply within 30 days. One of the reasons for her non-compliance was that she was considering closing her pharmacy. As a result, the College granted a number of extensions, including a further extension until October 15, 2009, and another extension to February 15, 2009.

Ms. Orbeck did not close her pharmacy and sent back the a signed Pharmacy Operations Reply Form declaring that all deficiencies identified on June 10, 2009 had been rectified. She did not request retirement status until just before attending the hearing into her conduct.

Despite the numerous extensions granted by the College, Ms. Orbeck did not provide proof that she had ordered the required texts until March 11, 2010, approximately 9 months after she was first notified of the requirement to do so. When Mr. Kalinka attended Acadia-Fairview Pharmacy with Randy Frohlich on April 21, 2010 he found the textbooks still in the box they had been shipped in.

The Tribunal finds that Ms. Orbeck's conduct in failing to order and produce the required texts within the prescribed period of time constitutes "unprofessional conduct" as defined in s. 1(1)(pp) of the HPA.

As a professional and licensee of Acadia-Fairview Pharmacy Ms. Orbeck is required to be familiar with the Standards for Pharmacy Practice which came into effect in April 2007. A pharmacist's duty to act professionally encompasses the entire time they are licensed to practice and the evidence presented shows that this was not the case. Given that several extensions were provided the Tribunal finds that Ms. Orbeck was not in compliance with Sections 1.1, 1.2 and 1.3 of the Standards for Pharmacy Practice.

Ms. Orbeck operated a licensed pharmacy without complying with the Standards for Pharmacy Practice and the Standards for Operating Licensed Pharmacies and knew that she was in breach of these Standards after the initial visit by Mr. Kalinka.

Despite several extensions from the College to aid in compliance Ms. Orbeck chose to remain in breach of these Standards while continuing to operate a licensed pharmacy. The tribunal feels that this shows a disregard for public safety and does not exemplify the conduct expected of a pharmacist. Therefore, Ms. Orbeck was not in compliance with Principles I, IX and X of the ACP's Code of Ethics.

**b) Allegation #2 – Continuing to Operate the Pharmacy without the Required Texts**

The Tribunal considered evidence presented by the ACP from the Pharmacy Operations Assessment Reply Form and the timeline of events. Acadia-Fairview Pharmacy was found to be without the required textbooks on June 10, 2009. Mr. Kalinka followed up several times with Ms. Orbeck to assess whether the textbooks had been ordered including a documented extension until February 15, 2010. Ms. Orbeck did fax a copy of an invoice showing she had purchased the required textbooks on March 11, 2010, after a complaint had been made.

Ms. Orbeck argued that textbooks are not considered up to date reference sources but the ACP made reference during summation and it is listed in Section 42 of the Standards for Operating a Licensed Pharmacy, that electronic formats are also acceptable. There was no evidence to suggest that Ms. Orbeck had ordered the required materials in an electronic format in lieu of ordering hard copies.

Therefore during the period of June 10, 2009 and up to approximately March 11, 2010 (or when delivery was accepted) the Acadia-Fairview Pharmacy and Ms. Orbeck were not in compliance with Sections 38, 39 and 40 of the Standards for Operating a Licensed Pharmacy.

In particular the Tribunal feels that operating a licensed pharmacy without following the regulations, standards and statutes set out by the ACP shows that Ms. Orbeck did not have the public's safety as her focus. Practicing pharmacy in this manner puts the public at risk and does not exemplify the professional conduct expected of a pharmacist.

Ms. Orbeck's delay at responding to the Pharmacy Operations Reply Form, the fact that the textbooks were ordered after she had been informed a complaint had been lodged and had not even been opened when Mr. Kalinka revisited Acadia-Fairview Pharmacy is a breach of Principle IX as it is not a constructive response to a practice visit.

**c) Allegation #3 – Acting in an Unprofessional Manner and Demonstrating a Pattern of Ungovernability**

The ACP argued the fact that Ms. Orbeck demonstrated a pattern of ungovernability due to her lack of timely response to correspondence from the ACP, her failure to remediate deficiencies until after a complaint had been made, her false declaration that she had corrected the deficiencies and her prior history of complaints involving similar issues.

The Tribunal considered all the evidence and agrees that Ms. Orbeck has not acted in a professional manner and has demonstrated a pattern of ungovernability.

The Tribunal considered evidence that Ms. Orbeck signed and faxed back her Pharmacy Operations Assessment Reply Form to the ACP that indicated that she had corrected issues identified within the form. Mr. Kalinka's subsequent visit showed that this was not the case and that Ms. Orbeck had provided the ACP with false information. The Tribunal understands that Ms. Orbeck was undergoing a trying time with health issues and increasing rent costs but must hold Ms. Orbeck to the same standard as any other pharmacist whether it is the first or last day of business.

In addition, the evidence confirms that Ms. Orbeck did not respond to the ACP's inquiries regarding the deficiencies identified by Mr. Kalinka in June 2009 in a timely manner. Given the fact that Ms. Orbeck was facing health concerns and a potential business closure the ACP granted a number of extensions to comply. Despite the extensions, Ms. Orbeck failed to comply until after she was aware the ACP had initiated a complaint.

As a member of a self regulated profession and a licensee Ms. Orbeck must take the responsibility to comply with the expectations placed upon her by the ACP in order to protect the public. This means complying with regulations, statutes and standards of the profession of pharmacy. Ms. Orbeck's lack of recognition of the ACP as the governing body of the profession of pharmacy through her false declaration and lack of timely response despite extensions suggests that she is ungovernable and is considered to be unprofessional conduct by the Tribunal. The Tribunal also feels that it is detrimental to the best interests of the public and the public's safety was put at risk by her noncompliance.

Ms. Orbeck argued that she was unaware of complaints brought forward by her customers but the Tribunal realizes that a layperson will not have a full understanding of the profession of pharmacy and does not consider this as a measure of public safety.

The Tribunal also considers this conduct as harmful to the profession as Ms. Orbeck did not fulfill her responsibility as a professional when she signed a false declaration and operated a pharmacy that was not in compliance with the standards, regulations and statutes governing the profession. Ms. Orbeck may have not realized she was not compliant until Mr. Kalinka's visit and the Tribunal considered this during their deliberations. The Tribunal does feel that after Mr. Kalinka's visit Ms. Orbeck should have complied with the required changes. Therefore, Ms. Orbeck breached Sections 1(p)(ii) and 1(p)(ix) of the *Pharmacy and Drug Act*.

The Tribunal spent considerable time discussing whether Ms. Orbeck's conduct should be considered to be unprofessional in light of Ms. Orbeck's long history as a member of the pharmaceutical profession, and in light of her commitment to her patients over the years.

While Ms. Orbeck's commitment to her patients is commendable, the Tribunal is concerned that Ms. Orbeck does not appear to understand that the legislation,

Bylaws and Standards that pharmacists must adhere to exist for the benefit of patients. Therefore, the failure to abide by the ACP's requirements has the potential to impact patients in a detrimental manner. While there is no evidence that any patients were adversely impacted by Ms. Orbeck's actions, her conduct, including the failure to maintain up-to-date reference materials, clearly had the potential to adversely impact patient safety.

Given the nature of the conduct outlined in allegations #1 and #2 addressed above, the Tribunal has serious concerns regarding Ms. Orbeck's willingness to accept the ACP's authority as a regulator.

Although in the normal course, the Tribunal would not admit into evidence previous findings of unprofessional conduct against a member until after making a determination on whether the allegations are proven, the Tribunal did admit into evidence the previous findings concerning Ms. Orbeck (Exhibit 4), given that they were relevant to allegation #3, concerning whether or not Ms. Orbeck is ungovernable.

The Tribunal notes that the Order of the Investigating Committee dated April 21, 2004 (Exhibit 4, Tab 1) dealt with similar allegations concerning Ms. Orbeck's failure to maintain an appropriate reference library and her failure to respond appropriately to the ACP. After making its findings, the Investigating Committee ordered Ms. Orbeck to provide proof that she had obtained the required reference library within 30 days, failing which she would be subject to an immediate suspension and competence review. Since Ms. Orbeck did not comply, she was suspended from practice pending completion of the Jurisprudence Examination. Ms. Orbeck subsequently appealed that direction to Council, who allowed her to return to practice, subject to a number of conditions.

In 2006, Ms. Orbeck was found to have engaged in misconduct by closing her pharmacy and continuing to operate a pharmacy from her home, when her home was not licensed as a pharmacy (Exhibit 4, Tab 6).

The Tribunal found similarities between the previous hearings and the present, namely Ms. Orbeck's lack of cooperation and lack of knowledge or understanding of the legislation, Standards of Practice and Code of Ethics that apply to members of the pharmaceutical profession. Ms. Orbeck's continuing disregard for the authority of the ACP concerns the Tribunal.

Even though Ms. Orbeck has closed her business and asked to be moved to retirement status the Tribunal cannot help but wonder if she would still be practicing had the first assessment not been completed. Also, the false declaration sent to the ACP is of concern as Ms. Orbeck sent this knowing she had not rectified the identified issues. It was not until a formal complaint had been registered that Ms. Orbeck chose to order the textbooks that were outstanding. The Tribunal sees this as an effort to conceal deficiencies within the pharmacy in order to continue to practice and a disregard for public safety. The Tribunal sees this as a sign of ungovernability and unprofessional conduct.

The Tribunal finds that Ms. Orbeck's conduct and pattern of ungovernability constitutes "unprofessional conduct" as defined in s. 1(1)(pp) of the HPA.

## **VI. ORDERS**

The Tribunal deliberated over the orders via email and teleconference. It accepts the ACP's argument that findings of ungovernability are the very heart of the professional and ethical obligations of a pharmacist and part of being a self governed profession. Ms. Orbeck breached a fundamental duty as a member of a self regulated profession and therefore the orders should reflect the gravity of the situation. During the Hearing Ms. Orbeck acknowledged the allegations were well founded but did not admit unprofessional misconduct. The pattern of previous discipline decisions were a concern even though the member has moved to retirement status and the Tribunal agrees with the ACP that the member must not be permitted to continue to practice in this manner in order to protect the public.

The Tribunal also reviewed the submission from Ms. Orbeck outlining her business dealings more thoroughly during the time the complaint was ongoing. Although sympathetic to the health concerns of Ms. Orbeck the Tribunal feels that a simple letter of reprimand is not sufficient considering the history of ungovernability that the member has shown and the lack acknowledgment of the College as an authority.

Therefore, the Tribunal imposes the following orders under section 82 of the *Health Professions Act*:

- a. Ms. Orbeck's practice permit be suspended for a period of 1 year and that the suspension be stayed to take effect only if Ms. Orbeck applies to change her status to active status;
- b. If Ms. Orbeck does request a change in status to obtain an active permit and has completed the 1 year suspension, she must complete and pass the ACP's jurisprudence exam and all other requirements set by the Registration Department;
- c. If Ms. Orbeck is issued an active practice permit that she be subjected to the following conditions:
  - a. Ms. Orbeck shall be prohibited from acting as a proprietor or licensee of a pharmacy, and;
  - b. Ms. Orbeck shall not practice as a sole pharmacist in a pharmacy;

These conditions shall be applied for the time that Ms. Orbeck has an active practice permit. Ms. Orbeck's competency as a pharmacist was not brought into question during the hearing but her ability to act as a proprietor and licensee was. Therefore, the Tribunal feels that her future activities in this role should be limited in order to protect the public.

- d. Ms. Orbeck pay a fine of \$2000.00 for allegations 1 and 2 and a fine of \$5000.00 for allegation 3. The payment schedule to be determined by the College;
- e. Ms. Orbeck pay all expenses, costs and fees related to the investigation and the hearing of this matter. The payment schedule to be determined by the College;
- f. A summary of this decision be published in the *acpNews* including the name of Ms. Orbeck;
- g. A copy of this decision be provided to all other pharmacy regulators in Canada by the Registrar of ACP.

Signed on behalf of the Hearing Tribunal  
by the Chair

Dated:

Per:

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