

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

AZHAR QURESHI

Registration number: 6099

DECISION OF THE HEARING TRIBUNAL

April 28, 2022

I. INTRODUCTION

The Hearing Tribunal held a hearing into the conduct of Azhar Qureshi on March 14, 2022. In attendance on behalf of the Hearing Tribunal were Anjali Acharya (pharmacist and chair), Patrick Thomson (pharmacist), Juane Priest (public member) and David Rolfe (public member).

The hearing took place via video conference. The hearing was held under the terms of Part 4 of the *Health Professions Act* (“HPA”).

In attendance at the hearing were James Krempien, Complaints Director of the Alberta College of Pharmacy (the “College”), Annabritt Chisholm, legal counsel for the Complaints Director, Azhar Qureshi, Investigated Member, Zachary Al-Khatib, legal counsel for Mr. Qureshi, and Jason Kully, independent legal counsel to the Hearing Tribunal.

Margaret Morley, Hearings Director of the College, was also present. Ms. Morley did not participate in the hearing but was available to assist in administering the virtual hearing.

There were no objections to the jurisdiction of the Hearing Tribunal to hear the matter or to the composition of the Hearing Tribunal.

II. ALLEGATIONS

The allegations set out in the Notice of Hearing were:

IT IS ALLEGED THAT, while you were a registered clinical pharmacist and the owner and proprietor of Copperstone Pharmacy (ACP Licence #3852), Evansdale Pharmacy (ACP Licence #2830), Health[y] Choice Pharmacy 101 (ACP Licence #2895), Hudson Pharmacy (ACP Licence #4029) and Super Mark Drugs (ACP Licence #3020), (collectively “the Pharmacies”), you:

1. Removed drugs, including Schedule 1 and 2 drugs, from one or more of the Pharmacies and stored them at [REDACTED] Edmonton, AB, which is not a licensed pharmacy;
2. Removed records containing pharmacy patients’ personal health information from one or more of the Pharmacies and stored them at [REDACTED] Edmonton, AB, when none of the Pharmacies were authorized to maintain pharmacy records at that location;
3. Prevented the licensee of one or more of the Pharmacies from carrying out their obligation to:
 - a. ensure their pharmacy operates in accordance with the *Pharmacy and Drug Act*, and

- b. ensure records are kept under the care and control of the licensee

when you removed drugs and records containing pharmacy patients' personal health information from one or more of the Pharmacies to store them at [REDACTED] Edmonton, AB, without the knowledge of the Pharmacies' licensees.

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 proprietor,
- 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 pharmacy proprietor.

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

- Standards 1 and 2 and sub-sections 1.1, 1.2 and 2.1(e) of the Standards of Practice for Pharmacists and Pharmacy Technicians,
- Principles 1(1,7), 4, 6(3) and 10(1) of the ACP Code of Ethics,
- Sub-sections 60(1)(a), 60(2)(a), 60(2)(b) and 107(1.1)(a) of the *Health Information Act* ("HIA");
- Sub-sections 8(1) and 8(6) of the Health Information Regulation,
- Sections 3, 11(2)(c), 11(3), 31(2)(c), and 32(2)(d) of the *Pharmacy and Drug Act*; and
- Sub-sections 12(3), 12(6)(a), 12(6)(b) 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) and 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), 1(1)(p)(vi) and 1(1)(p)(ix) of the *Pharmacy and Drug Act*.

Ms. Chisholm advised that the College was withdrawing the allegation that Mr. Qureshi's conduct decreased the public's trust in the profession.

III. EVIDENCE AND SUBMISSIONS

The hearing proceeded with an Agreed Statement of Facts and an Admission of Unprofessional Conduct on the part of Mr. Qureshi. No witnesses were called to testify.

The following exhibits were entered by agreement of the parties:

Exhibit 1: Agreed Exhibit Book, which included the Notice of Hearing, an Admission of Unprofessional Conduct, and an Agreed Statement of Facts.

The Agreed Statement of Facts provided by the parties indicated:

1. At all relevant times, Mr. Qureshi was a registered member of the College on the clinical pharmacist register and practiced as a pharmacist and was the owner and proprietor of Copperstone Pharmacy (ACP License #382), Evansdale Pharmacy (ACP License #2830), Health[y] Choice Pharmacy 101 (ACP License #2895), Hudson Pharmacy (ACP License #4029) and Super Mark Drugs (ACP License #3020).
2. On March 6, 2021, Mr. Krempien received a call from Det. [REDACTED] of the Edmonton Police Service ("EPS"). A memorandum from [REDACTED] outlined the following information that Mr. Krempien received from Det.
 - a. On February 24, 2021 [REDACTED] living by his wife and located by EPS at [REDACTED] Edmonton (the "Apartment").
 - b. The Apartment was in Mr. Qureshi's name.
 - c. During EPS' attendance at the Apartment, Mr. Qureshi was found alone and in medical distress.
 - d. EPS did not know the cause of Mr. Qureshi's medical distress but indicated he had been transported to the hospital and released the next day.
 - e. In the Apartment, EPS discovered a large quantity of previously dispensed, patient-labelled pill bottles containing prescription drugs, as well as prescription ointments, syrups and other dosage forms. Many of the prescription drugs were expired or unused.
 - f. EPS identified over 150 separate exhibits related to the prescription drugs found in the Apartment and seized tens of thousands of pills. EPS drug experts estimated that 1/3 pills were substances under the *Controlled Drugs and Substances Act* and 2/3 were substances under the *Food and Drug Act*.

- a. 153 drug exhibits containing Schedule 1 and 2 drugs were seized from the Apartment; and,
 - b. The majority of the exhibits had prescription labels containing patient health information attached.
9. On May 21, 2021, Mr. Krempien received an email which confirmed that none of the pharmacies had submitted an application to maintain pharmacy records at the Apartment.
 10. Over the course of the investigation Mr. Krempien found no evidence Mr. Qureshi trafficked or intended to traffic any of the drugs found in the Apartment.
 11. EPS did not lay charges against Mr. Qureshi resulting from its investigation into the February 24, 2021 incident at the Apartment.
 12. Mr. Qureshi has no prior findings of unprofessional conduct or matters referred to a Hearing Tribunal.

The admissions provided by Mr. Qureshi were as follows:

1. Mr. Qureshi admitted the three allegations set out in the Notice of Hearing.
2. Mr. Qureshi agreed and acknowledged his conduct breached his statutory and regulatory obligations to the College as an Alberta pharmacist and pharmacy proprietor, undermined the integrity of the profession, created the potential for patient harm, and that he failed to exercise the professional and ethical judgment expected and required of an Alberta pharmacist and pharmacy proprietor.
3. Mr. Qureshi agreed and acknowledged his conduct breached Standard 1 and 2 and Sub-sections 1.1, 1.2, and 2.1(e) of the Standards of Practice for Pharmacists and Pharmacy Technicians; Principles 1(1,7), 4, 6(3) and 10(1) of the College's Code of Ethics; Sub-sections 60(1)(a), 60(2)(a), 60(2)(b) and 107(1.1)(a) of the *Health Information Act*; Sub-sections 8(1) and 8(6) of the Health Information Regulation; Sections 3, 11(2)(c), 11(3), 31(2)(c), and 32(2)(d) of the *Pharmacy and Drug Act*; and Sub-sections 12(3), 12(6)(a), and 12(6)(b) of the Pharmacy and Drug Regulation.
4. Mr. Qureshi admitted his conduct constituted "unprofessional conduct" as defined in Sections 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii) and 1(1)(pp)(xii) of the HPA.
5. Mr. Qureshi admitted his conduct constituted misconduct pursuant to Sections 1(1)(p)(i), 1(1)(p)(ii), 1(1)(p)(vi), and 1(1)(p)(ix) of the *Pharmacy and Drug Act*.

Ms. Chisholm outlined the three allegations brought forward and how the complaint came before the Complaints Director. She explained each allegation in detail. She advised that the Hearing Tribunal's role was to determine if the allegations had been proven by the Complaints Director on a balance of probabilities and to determine if the proven conduct constituted unprofessional conduct under the HPA.

Ms. Chisolm explained the evidence before the Tribunal was in the form of an Admission of Unprofessional Conduct and an Agreed Statement of Facts with supporting documents that included copies of memos from the Complaints Director that detailed conversations he had with an Edmonton Police Service Detective. She advised the evidence also included the Complaints Director's Record of Decision; a letter from the Complaints Director to Mr. Qureshi providing him information about the decision to conduct an investigation, and Mr. Qureshi's response to the complaint. Ms. Chisolm submitted these documents provided the necessary information to prove the allegations and to demonstrate the conduct amounted to unprofessional conduct.

Ms. Chisolm reviewed Mr. Qureshi's Admission of Unprofessional Conduct found in Exhibit 1 and submitted he admitted to what was alleged in the Notice of Hearing.

Ms. Chisolm reviewed the Agreed Statement of Facts. She submitted that pharmacists are entrusted under the *Pharmacy and Drug Act* to store drugs within licensed pharmacies and entrusted by the *Health Information Act* to be custodians of Albertans' health information and that Mr. Qureshi, through his conduct, disregarded both responsibilities. By removing patient records from the pharmacy and storing them in an unauthorized location, Mr. Qureshi also created the potential for patient harm, and the potential for patient information to be accessed by third parties in an unauthorized manner. Ms. Chisolm acknowledged there was no actual evidence of patient harm or access by a third party, besides the police. Ms. Chisolm submitted as a current proprietor of pharmacies in Alberta, Mr. Qureshi was expected to understand a licensee's obligations to maintain drugs and patient records in a pharmacy. She stated the evidence demonstrated that the licensees of Mr. Qureshi's pharmacies were not involved in his decision to remove the drugs or the attached patient information from the pharmacies and that his actions had the effect of preventing them from upholding their duties. Ms. Chisolm reviewed the specific sections and standards that Mr. Qureshi admitted he breached and explained how Mr. Qureshi's conduct contravened the specific obligations.

Mr. Al-Khatib submitted the allegations arose from a single act, which was the removal of Schedule 1 and 2 pharmaceuticals from the pharmacies identified to a corporate office of one of the pharmacies. He advised that there were no overt signs of trafficking and that the drugs were found largely in vials. The patient information on the vials is what gave rise to the allegation about removing private patient information. Mr. Al-Khatib submitted that Mr. Qureshi made a mistake of removing the pharmaceuticals, in the unique circumstances of the COVID pandemic, without adequate steps and permissions from the College. He submitted that Mr. Qureshi did not take the necessary due diligence, which was to seek the permission of the College before removing the pharmaceuticals with the attached patient labels from the pharmacies.

VII. FINDINGS

During the hearing, the Hearing Tribunal verbally advised the parties that it accepted Mr. Qureshi's admissions of unprofessional conduct and found that the allegations were proven and amounted to unprofessional conduct.

The agreed facts and documentation support the admissions of unprofessional conduct made by Mr. Qureshi.

Mr. Qureshi was the owner and proprietor of Copperstone Pharmacy, Evansdale Pharmacy, Health[y] Choice Pharmacy, Hudson Pharmacy, and Super Mark Drugs at all relevant times. On February 24, 2021, after being reported missing by his wife, Mr. Qureshi was located by Edmonton police at a residential apartment in Edmonton, located [REDACTED] [REDACTED] which was in his name. He was alone and in medical distress. In the residential apartment, the police discovered a large quantity of previously dispensed patient-labelled pill bottles containing prescription drugs, as well as prescription ointments, syrups, and other dosage forms. Many of the drugs were expired or unused. In total, the police identified over 150 separate exhibits related to the prescription drugs found and they seized tens of thousands of pills. Edmonton Police Service drug experts estimated that one-third of the pills were substances under the *Controlled Drugs and Substances Act* and two-thirds were categorized under the *Food and Drug Act*. There were no signs of drug trafficking at the apartment and Mr. Qureshi was not charged criminally.

The apartment was not a personal residence or a licensed pharmacy but was a corporate office used by Mr. Qureshi to conduct business for the pharmacies, as well as a place to gather manufacturer-returned and expired drugs from the pharmacies for disposal during the ongoing COVID-19 pandemic. Mr. Qureshi brought the drugs from the pharmacies to the apartment as a method of managing loss prevention. At the apartment, he sorted the drugs for returns to the appropriate distributor or to be disposed of in an environmentally suitable manner. Mr. Qureshi believed it would have been unsafe to store and process the drugs at his home residence or at the pharmacies due to the ongoing pandemic. No staff or pharmacy licensees of the pharmacies were involved and none of the pharmacies had submitted an application to maintain pharmacy records at the apartment.

The facts demonstrate that Mr. Qureshi removed drugs, including Schedule 1 and 2 drugs, from the pharmacies and stored them at the residential apartment located at [REDACTED] [REDACTED] Edmonton, AB. It was also demonstrated that this location was not a licensed pharmacy. Accordingly, Allegation 1 is proven.

The pill bottles and other prescription items found at the apartment were labelled with personal health information from patients of the pharmacies. By removing the pill bottles and other items from the pharmacies and storing them at the apartment, Mr. Qureshi also removed records containing patient personal health information from the pharmacies and stored such information at the apartment. The facts indicate the pharmacies were not authorized to maintain pharmacy records at the apartment and Allegation 2 is proven.

The facts indicate that no staff or pharmacy licensees were involved or aware of Mr. Qureshi's actions. His removal of medications and patient personal health information without the licensee's knowledge prevented them from carrying out their obligations of operating the pharmacy in accordance with the *Pharmacy and Drug Act* and of ensuring records are kept under their care and control. Allegation 3 is proven.

The safety of the public and the integrity of the drug distribution system relies on pharmacists to store drugs sold to licensed pharmacies in accordance with the requirements of the *Pharmacy and Drug Act*. By relying on his authority as a pharmacist and pharmacy proprietor to take steps to store drugs outside of the licensed pharmacies without the

knowledge of the pharmacies' licensees, Mr. Qureshi breached his statutory and regulatory obligations to the College and his conduct was unprofessional.

Mr. Qureshi's actions also demonstrate a failure to exercise the professional and ethical judgment expected and required of an Alberta pharmacist and pharmacy proprietor. Pharmacists are entrusted under the *Pharmacy and Drug Act* to store drugs within licensed pharmacies and entrusted by the *Health Information Act* to be custodians of Albertans' health information. By removing patient records from the pharmacy and storing them in an unauthorized location, Mr. Qureshi disregarded both responsibilities. He also created the potential for patient harm, and the potential for that patient information to be accessed by third parties in an unauthorized manner. By storing patient information outside of a licensed pharmacy, at a location where no pharmacy was authorized by the College to maintain pharmacy records, and without the knowledge of the licensees, Mr. Qureshi's conduct had the potential to cause patient harm and decreased the public's trust in the profession. Patients expect both appropriate steps towards confidentiality and environmental stewardship when they return drugs and records containing personal health information to their pharmacy. Proprietors are required to ensure that licensees are capable of and supported in managing the practice of pharmacists in their licensed pharmacy and ensuring that the *Pharmacy and Drug Act*, its regulations and the Standards for the Operation of Licensed Pharmacies are complied with. In removing both drugs and records from the pharmacies, Mr. Qureshi failed to uphold these obligations and his conduct was unprofessional.

With respect to the specific standards that are cited in the Notice of Hearing:

1. Mr. Qureshi breached Standard 1.1 of the Standards of Practice for Pharmacists and Pharmacy Technicians by not acting in accordance with the HPA, the *Pharmacy and Drug Act*, its regulations, and the Standards for the Operation of Licensed Pharmacies, the Code of Ethics, and the *Health Information Act*.
2. Mr. Qureshi breached Standard 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians by not complying with the letter and spirit of the law to ensure that the public and each patient receives full protection.
3. Mr. Qureshi breached Standard 2.1(e) of the Standards of Practice for Pharmacists and Pharmacy Technicians by not making decisions in the best interest of the patient when he removed patient information, which he had a duty to keep confidential, from a licensed pharmacy to a place that was not authorized to store patient records.
4. Mr. Qureshi breached Principle 1 and Principle 4 of the Code of Ethics because patient records were removed from the pharmacy and stored at an unauthorized location that could have been accessed by third parties who did not have the authority to access that information.
5. Principle 6(3) of the Code of Ethics requires pharmacists to act as a steward for the environment by providing safe disposal of drugs, non-prescription medications, and health-related products, and to support other environmental initiatives related to the pharmacy. Mr. Qureshi contravened this requirement

when he brought drugs outside of a licensed pharmacy and outside of the intended drug distribution system, which was against the *Pharmacy and Drug Act*, and created more of an opportunity for drugs to be diverted.

6. Mr. Qureshi breached Principle 10 of the Code of Ethics by not complying with the letter and spirit of the law that governs the practice of pharmacy.
7. As Mr. Qureshi was a custodian, he breached s.60 and s.107 of the *Health Information Act* by removing patient records outside of the pharmacy and to an unauthorized storage location.
8. Section 8(1) of the Health Information Regulation requires a custodian to identify and maintain a written record of the administrative, and technical and physical safeguards in respect of that information, and s.8(6) requires the custodian to ensure that its affiliates are aware of and adhere to the custodian's administrative, technical and physical safeguards. Mr. Qureshi did not allow the licensee of the pharmacies to fulfill their duty, and he also did not adhere to any safeguards that were in place.
9. Section 3 of the *Pharmacy and Drug Act* states no person shall provide a pharmacy service, which includes storing drugs, unless that service is provided from a licensed pharmacy with an appropriate category of license and in accordance with the Act and conditions imposed on the license. Similarly, the legislation requires Schedule 1 and Schedule 2 drugs to only be stored in a licensed pharmacy in the dispensary or another secure site authorized by the Standards for the Operation of Licensed Pharmacies. This does not extend to the storage of drugs in a corporate office. Mr. Qureshi contravened these requirements by storing the drugs at the Apartment.
10. Under the Pharmacy and Drug Regulation, a licensee must retain records which deal with patient information at the pharmacy and a proprietor must take reasonable steps to ensure the licensee complies with the licensee's duties. Mr. Qureshi did not comply with these obligations because he did not ensure that the licensee was complying with their duties because he in fact prevented them from complying with their duties.

In light of the above, Mr. Qureshi engaged in unprofessional conduct that displayed a lack of judgment in the provision of professional services, that contravened the Code of Ethics, the Standards of Practice, and other legislation, that harmed the integrity of the regulated profession of pharmacy, and that was detrimental to the best interests of the public.

VIII. SUBMISSIONS ON SANCTION

The Hearing Tribunal invited the parties to make submissions with respect to sanction. Ms. Chisholm advised the Hearing Tribunal that the parties had agreed to a Joint Submission on Sanction, which was entered as Exhibit 2. The Joint Submission on Sanctions specified that:

1. Mr. Qureshi's practice permit shall be suspended for 12 months, with:

- a. 3 months to be served on dates acceptable to the Complaints Director and completed within 6 months from the date the Hearing Tribunal issues its written decision; and
 - b. 9 months to be held in abeyance pending there being no further concerns about Mr. Qureshi removing drugs or patient records from a pharmacy in an unauthorized manner or preventing a licensee from carrying out their obligations under the *Pharmacy and Drug Act* coming to the attention of the Complaints Director and referred to an investigation for a period of 3 years from the date the Hearing Tribunal issues its written decision.
2. Mr. Qureshi shall successfully pass the College's Ethics & Jurisprudence Exam and provide proof of same to the Complaints Director before Mr. Qureshi's suspension in Order 1(a) is lifted.
3. Mr. Qureshi shall pay a fine of \$2,500 for Allegation 1, \$2,500 for Allegation 2 and \$5,000 for Allegation 3, for a total fine of \$10,000. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The fine shall be paid in full within one (1) year of the date Mr. Qureshi receives a copy of the Hearing Tribunal's written decision.
4. Mr. Qureshi shall provide a copy of the Hearing Tribunal's written decision in this matter to any pharmacy employer or licensee of a pharmacy in which he works, or in which he is an owner or proprietor, for a period of five (5) years, commencing on the date he receives a copy of the Hearing Tribunal's written decision.
5. If the Complaints Director refers concerns about Mr. Qureshi removing drugs or patient records from a pharmacy in an unauthorized manner or preventing a licensee from carrying out their obligations under the *Pharmacy and Drug Act* to a hearing within five years from the date the Hearing Tribunal issues its written decision, the Complaints Director shall be at liberty to direct that Mr. Qureshi not be permitted to serve as the owner, proprietor or licensee of a pharmacy for five (5) years, commencing one month from the date the Complaints Director provides notice to Mr. Qureshi of the Complaints Director's intention to effect this order. If the Complaints Director does not refer concerns about Mr. Qureshi removing drugs or patient records from a pharmacy in an unauthorized manner or preventing a licensee from carrying out their obligations under the *Pharmacy and Drug Act* to a hearing within five years from the date the Hearing Tribunal issues its written decision, this order shall expire.
6. Mr. Qureshi shall be responsible for payment of all costs of the investigation and hearing. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The costs shall be paid in full within 24 months of the date he receives a copy of the Hearing Tribunal's written decision.

Ms. Chisholm submitted the Hearing Tribunal's decision on sanction should reflect sanctioning principles, as they apply to this case, that serve the following purposes: the protection of the public, the maintenance of the integrity of the profession, the fairness to the investigated member, and deterrence to Mr. Qureshi specifically and the profession more generally.

She submitted the Hearing Tribunal may find it useful to consider the factors set out in the case of *Jaswal v. Newfoundland Medical Board* in determining whether the four purposes were served.

With respect to the nature and gravity of the allegations, Ms. Chisholm submitted Mr. Qureshi disregarded the authorities granted to pharmacists as well as his responsibilities of the custodian of health information and his obligations as a proprietor of pharmacies. Mr. Qureshi used the authority entrusted to him as a pharmacist and as a proprietor of the pharmacies to remove drugs contrary to the *Pharmacy and Drug Act*. He also used his authority as a pharmacist and a custodian of health information to remove patient records in a form of labelled vials from the pharmacies, contrary to the *Health Information Act* and the *Pharmacy and Drug Act*, the Standards of Practice and the Code of Ethics. This conduct had the effect of prohibiting the licensees of his pharmacies from fulfilling their obligations under the *Pharmacy and Drug Act* and to ensure that patient records were kept under their care and control.

Ms. Chisholm advised that Mr. Qureshi had been registered with the College since December 2001 and that he had previously been a licensee for 15 years. While inexperience may be a mitigating factor in some cases, Ms. Chisholm submitted it was not a mitigating factor as Mr. Qureshi should have recognized that his removal of drugs and the attached patient records from the pharmacies was not permitted and that he was preventing the licensees from fulfilling their own obligations.

Ms. Chisholm advised that the Complaints Director was not aware of any prior findings of unprofessional conduct against Mr. Qureshi.

With respect to the number of times the offence was proven to occurred, Ms. Chisholm stated this was a single type of conduct, but the evidence was that there was a significant number of drugs, and this would suggest there was a pattern of conduct as Mr. Qureshi removed drugs from more than one of the pharmacies on more than one occasion.

Ms. Chisholm submitted Mr. Qureshi's acknowledgement that his behavior was unacceptable and did not meet the ethical and professional standards expected of a pharmacist through his admission of the allegations in the Notice of Hearing was a mitigating factor. She also acknowledged that Mr. Qureshi's cooperation allowed the proceedings to occur in an efficient manner.

Ms. Chisholm acknowledged the Complaints Director was not aware of any impact on an offended patient but stated there was the potential to cause patient harm based on the unauthorized removal and storage of patient records from the pharmacies.

Ms. Chisholm spoke of the need for sanctions to have a deterrent effect against Mr. Qureshi specifically and to the profession generally. She submitted there was a deterrent effect in almost all the sanctions. She submitted the orders would remind Mr. Qureshi as well as other regulated members and proprietors of the importance of upholding their obligations and would demonstrate there are significant consequences if one fails to do so.

Ms. Chisholm submitted the next factor is the need to maintain public confidence in the integrity of the pharmacy profession. She stated it was important that discipline proceedings send a clear message to legislators and to the public that the profession takes its statutory and regulatory obligations seriously and that if pharmacy professionals do not, there will be serious and appropriate sanctions.

Ms. Chisholm submitted the conduct was serious and was clearly outside of what is permitted.

Finally, Ms. Chisholm advised that there were no similar cases that were found to put before the Hearing Tribunal to act as a guide. Nonetheless, based on the other factors, Ms. Chisholm submitted the sanctions proposed in the Joint Submission on Sanction were fair and appropriate as:

1. The 12-month suspension, with 3 months to be served and 9 months to be held in abeyance pending no further concerns coming to the attention of the Complaints Director and being referred to an investigation, was intended to have a serious deterrent effect on Mr. Qureshi, as well as the profession as a whole.
2. Mr. Qureshi had been licensed with the College for over 20 years, so it was useful for him to take the Ethics & Jurisprudence Exam to remind him of the obligations of a pharmacist and the Code of Ethics that he is required to uphold as a regulated member of the profession, as well as a proprietor.
3. The College has the authority to order fines up to \$10,000 per allegation to a maximum fine of \$50,000 in total. A moderate, but still significant amount of fines, for each allegation was appropriate in this case.
4. Providing a copy of the Hearing Tribunal's written decision to any pharmacy employer or licensee of a pharmacy in which he works, or in which he is an owner or proprietor, is appropriate as Mr. Qureshi's conduct is something that is important for the licensees or pharmacy employers to know about. In addition, it would help hold Mr. Qureshi accountable for not engaging in similar behaviour in the future.
5. The order permitting the Complaints Director to direct that that Mr. Qureshi not be permitted to serve as an owner, proprietor or a licensee of a pharmacy for a further 5-year period if further concerns arose about the same conduct at issue in this case serves as perhaps the most significant deterrent and is intended to let the public know that the College takes Mr. Qureshi's conduct seriously and that it will not tolerate similar conduct from him into the future. This is a serious order and

should not be taken lightly. It should be seen as an understanding on Mr. Qureshi's part that he does not intend to engage in similar conduct in the future.

6. With respect to costs, it is appropriate that an investigated member be responsible for at least a portion of the costs of the hearing as the profession generally should not be accountable for paying for a member's unprofessional conduct.

Ms. Chisholm encouraged the Hearing Tribunal to accept the Joint Submission on Sanction. While she acknowledged the Hearing Tribunal is the decision maker, she referred to *R. v. Anthony-Cook*. This case defines a “public interest test” for decision-makers evaluating a joint-submission on sanctions. The public interest test says that the decision-maker should not depart from a joint submission on sanctions unless the proposed sanctions would bring the administration of justice into disrepute or would be contrary to the public interest. She submitted this is a “very stringent test”. Ms. Chisholm also referred to the *Bradley v. Ontario College of Teachers* decision which accepted that this public interest test is the correct test that should be applied in professional discipline hearings.

In conclusion, Ms. Chisholm submitted the joint submission on sanction meets the purposes of sentencing, as well as the public interest test. She submitted the orders would ensure specific deterrence for Mr. Qureshi and send a message of general deterrence to the profession. The sanctions are also serious enough to protect the public and the integrity of the profession going forward.

Mr. Al-Khatib submitted this case involved a mistake due to unique circumstances. The fact there was no similar case reflects the unique circumstances of the situation. He advised Mr. Qureshi had taken responsibility for that mistake and he had acknowledged that while that mistake created a risk of harm that should be sanctioned, it did not harm anyone other than himself.

Mr. Al-Khatib stated this was not the type of infraction that was driven by intent for some sort of material gain or personal benefit or profit and that this was a serious administrative mistake. He advised Mr. Qureshi’s actions were not meant to result in any type of financial profit or personal benefit and none accrued. Instead, Mr. Qureshi suffered both financially and personally as a result of this mistake already. Mr. Al-Khatib submitted that, although there was no evidence of financial suffering, Mr. Qureshi had to take time away from work due to the health situation that arose, as well as the stress of dealing with being subject to the professional discipline proceedings.

More importantly, Mr. Al-Khatib submitted that Mr. Qureshi demonstrated he wanted to make up for his mistakes. He had done so by working with the College to streamline the proceedings, ensure that witnesses were not put through the difficult of proceeding, keep costs to a minimum, and preserve administration and judicial economy. Mr. Al-Khatib also advised that this was the first infraction of any kind in Mr. Qureshi’s long and otherwise distinguished career. Mr. Qureshi was the proprietor of four pharmacies, and he benefited the community through his work and proprietorship.

Mr. Al-Khatib submitted the panel should consider the high bar for rejecting or modifying a joint submission. He stated it was only in circumstances where the panel was convinced that

the sanctions would bring the public administration of the profession into disrepute or that public confidence would be harmed. He submitted the sanctions would have a significant deterrent effect as there were serious penalties both in terms of costs and in terms of the orders, many of which were designed to incentivize compliance and good behavior going forward to and to ensure this is the last time Mr. Qureshi was before a tribunal. Mr. Qureshi agreed to the serious sanctions because of his confidence that he would not be before a tribunal again and that no other complaints would be made.

Mr. Qureshi provided a statement in which he apologized for the mistake that happened. He advised he took responsibility for the medications due to events related to COVID.

IX. ORDERS

The Hearing Tribunal assessed the Joint Submission on Sanctions for appropriateness of sanction and the submissions by both parties were reviewed. The Hearing Tribunal accepted the Joint Submission on Sanctions.

The Hearing Tribunal acknowledges that deference should be provided to joint submissions on sanctions and acknowledges that the Tribunal ought not to depart from the agreed upon sanctions unless they would bring the administration of justice into disrepute or be contrary to the public interest.

The Hearing Tribunal considered that sanctions must serve several purposes: public protection, maintenance of the profession's integrity, fairness to Mr. Qureshi and specific and general deterrence. The Hearing Tribunal considered the factors from the *Jaswal* decision to determine if the agreed upon sanctions served the purposes. The Tribunal balanced the seriousness of the conduct which involved a disregard for patient confidentiality, and which breached a number of professional and statutory obligations, the fact that Mr. Qureshi was not a new pharmacist, and the indication of the repeated nature of the conduct with Mr. Qureshi's admission of unprofessional conduct, the fact that this was Mr. Qureshi's first complaint, and his personal circumstances. The Tribunal also considered if the sanctions would bring the administration of justice into disrepute or be contrary to the public interest.

In examining the proposed sanctions, the 12-month suspension, with three months being served and nine months being held in abeyance, and the fines that total \$10,000 are significant sanctions and demonstrate the seriousness of Mr. Qureshi's conduct. The Tribunal agreed that these sanctions will have a serious deterrent effect on Mr. Qureshi, as well as the profession as a whole. This will provide protection to the public by reducing the risk that other pharmacists will similarly remove drugs and patient personal information to an unauthorized location. The sanctions also demonstrate that this conduct is unacceptable and that it will not be tolerated. They maintain the public's confidence in the integrity of the profession as there is a clear demonstration that the removal of drugs and patient information will be taken seriously. These sanctions reflect the seriousness of Mr. Qureshi's disregard for the authorities and privileges granted to pharmacists, as well as his responsibilities of the custodian of health information and his obligations as a proprietor of pharmacies.

The Hearing Tribunal also recognized the value of the requirement to provide a copy of the Hearing Tribunal's written decision to any pharmacy employer or licensee of a pharmacy in

which Mr. Qureshi works, or in which he is an owner or proprietor, for a period of five years. This serves as an educational tool for the profession, a deterrent for Mr. Qureshi and the profession, and an important safeguard for the public.

The Ethics & Jurisprudence Exam will also protect the public by ensuring that Mr. Qureshi is reminded of his obligations as a professional and by providing an opportunity for Mr. Qureshi to engage in ongoing rehabilitation.

The Hearing Tribunal agreed that the order permitting the Complaints Director to direct that Mr. Qureshi not be permitted to serve as an owner, proprietor, or a licensee of a pharmacy for a further 5-year period if further concerns arose about the same conduct at issue in this case serves as perhaps the most significant deterrent. This sanction also protects the public and demonstrates to the public that the profession takes Mr. Qureshi's conduct seriously and that it will not tolerate similar conduct from him into the future. This is a serious order and should not be taken lightly.

It is appropriate that Mr. Qureshi be responsible for costs of the hearing and investigation, as it was his conduct that necessitated the proceedings. While his admissions and cooperation allowed the matter to proceed efficiently and at a lower cost, he has agreed to be responsible for the full costs.

In light of the above, the Hearing Tribunal found that the agreed upon sanctions met the purposes of sanctions and found that they met the public interest test. Accordingly, the Hearing Tribunal accepted the Joint Submission on Sanctions and made the following orders pursuant to Section 82 of the HPA:

1. Mr. Qureshi's practice permit shall be suspended for 12 months, with:
 - a. Three (3) months to be served on dates acceptable to the Complaints Director and completed within six (6) months from the date the Hearing Tribunal issues its written decision; and
 - b. Nine (9) months to be held in abeyance pending there being no further concerns about Mr. Qureshi removing drugs or patient records from a pharmacy in an unauthorized manner or preventing a licensee from carrying out their obligations under the *Pharmacy and Drug Act* coming to the attention of the Complaints Director and referred to an investigation for a period of three (3) years from the date the Hearing Tribunal issues its written decision.
2. Mr. Qureshi shall successfully pass the College's Ethics & Jurisprudence Exam and provide proof of same to the Complaints Director before Mr. Qureshi's suspension in Order 1(a) is lifted.
3. Mr. Qureshi shall pay a fine of \$2,500 for Allegation 1, \$2,500 for Allegation 2 and \$5,000 for Allegation 3, for a total fine of \$10,000. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director.

The fine shall be paid in full within one (1) year of the date Mr. Qureshi receives a copy of the Hearing Tribunal's written decision.

4. Mr. Qureshi shall provide a copy of the Hearing Tribunal's written decision in this matter to any pharmacy employer or licensee of a pharmacy in which he works, or in which he is an owner or proprietor, for a period of five (5) years, commencing on the date he receives a copy of the Hearing Tribunal's written decision.
5. If the Complaints Director refers concerns about Mr. Qureshi removing drugs or patient records from a pharmacy in an unauthorized manner or preventing a licensee from carrying out their obligations under the *Pharmacy and Drug Act* to a hearing within five (5) years from the date the Hearing Tribunal issues its written decision, the Complaints Director shall be at liberty to direct that Mr. Qureshi not be permitted to serve as the owner, proprietor or licensee of a pharmacy for five (5) years, commencing one month from the date the Complaints Director provides notice to Mr. Qureshi of the Complaints Director's intention to effect this order. If the Complaints Director does not refer concerns about Mr. Qureshi removing drugs or patient records from a pharmacy in an unauthorized manner or preventing a licensee from carrying out their obligations under the *Pharmacy and Drug Act* to a hearing within five years from the date the Hearing Tribunal issues its written decision, this order shall expire.
6. Mr. Qureshi shall be responsible for payment of all costs of the investigation and hearing. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The costs shall be paid in full within 24 months of the date he receives a copy of the Hearing Tribunal's written decision.

Signed on behalf of the hearing tribunal by the Chair on April 28, 2022

Per: 
Anjali Acharya (Apr 28, 2022 13:08 MDT)

Anjali Acharya