

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF

PIERRE RIZK

Registration number 11721

DECISION OF THE HEARING TRIBUNAL ON SANCTIONS

I. INTRODUCTION

The Hearing Tribunal comprised of Brad Willsey, pharmacist and chairperson; Chris Heitland, pharmacist; Kamal Dullat, pharmacist and Dave Rolfe, public member held a hearing into the conduct of Dr. Pierre Rizk between August 13-16 and November 20, 2019. The Investigated Member, Dr. Pierre Rizk, did not attend the hearing. On September 2, 2020 the Hearing Tribunal issued its decision on the merits of the allegations. The Hearing Tribunal found all the allegations of unprofessional conduct against Dr. Rizk to have been proven. The Hearing Tribunal's merits decision requested the parties' submissions on sanction.

Counsel for the Complaints Director provided written submissions on sanction to the Hearings Director, Ms. Morley, and to Dr. Rizk by email to drpeterrizk@hotmail.com on October 29, 2020. The Hearing Tribunal's merits decision confirmed that this was Dr. Rizk's email address on his registration record with the College. During the Merits hearing, Ms. Morley testified that she had sent correspondence to Dr. Rizk at this email address and received responses from him. Ms. Morley had also testified that Dr. Rizk's former counsel, Mr. Hajduk had advised the College on April 17, that he no longer represented Dr. Rizk and to correspond with him at that email address.

Ms. Morley also wrote to Dr. Rizk by email on October 29, 2020 to drpeterrizk@hotmail.com to advise him that the Hearing Tribunal would meet to deliberate on sanctions on December 2, 2020 and that any submission on sanction received by November 30, 2020 would be provided to the Hearing Tribunal. Ms. Morley wrote to Dr. Rizk again on November 30, 2020 confirming that no submission on sanction had been received from him. Ms. Morley confirmed the Hearing Tribunal would be deliberating on December 2, 2020 and that it would thereafter issue a final written decision which would be published on the College's website. No submissions on sanctions were received from Dr. Rizk.

The Hearing Tribunal met on December 2, 2020 and considered the record of the hearing, its findings of unprofessional conduct against Dr. Rizk and the Complaints Director's written submissions on sanction. Mr. Gregory Sim attended with the Hearing Tribunal as its independent legal counsel.

II. FINDINGS

In the merits decision, the Hearing Tribunal found each of the allegations in the four Notices of Hearing to have been proven and to constitute unprofessional conduct pursuant to the *Health Professions Act*, RSA 2000, c. H-7 ("HPA"):

ACP Complaint 6463

IT IS ALLEGED THAT as both a registered Alberta pharmacist and the licensee of Supreme Health Drug Therapy Management Clinic & Pharmacy (ACP License #3085), you:

1. Failed, while providing care to your patient DL between May 17, 2017 and April 3, 2018 to:
 - a. provide notification of your prescribing activities to DL's, primary care physician, [KB], and
 - b. collaborate with other healthcare professionals in the care of your patient, DL, including [KB].
2. Consistently increased DL's medication doses and prescribed additional medications for him despite the fact that:
 - a. DL was meeting the treatment goals you established,
 - b. you did not consider the concerns and professional advice provided to DL by [KB] as reported by DL and failed to discuss those reported concerns with [KB],
 - c. you did so without appropriately monitoring DL by ordering and reviewing objective data, including laboratory tests to assess organ function; and
 - d. you did not consider alternatives to increasing the medication doses and prescribing additional medications, including collaboration with other health professionals and the use of non-drug therapies to assist in weight reduction.
3. Potentially placed DL at risk when you prescribed him five different prescription medications for weight loss concurrently, three of which are not indicated for that use by Health Canada.
4. Managed adverse events and treatment failures for DL, by prescribing additional medication rather than undertake further assessment and consider other alternatives, or collaborate with, or refer DL to, other healthcare practitioners.
5. Failed to provide [KB] with copies of the communication and notifications of prescribing information regarding your mutual patient DL, which she requested on May 1, 2018 and that you claimed to have sent her between May 2017 and April 3, 2018.
6. Misled and failed to cooperate with an investigator appointed by the Complaints Director of the Alberta College of Pharmacy in this matter when you falsely claimed that you attempted to collaborate and provide [KB] with the documentation pharmacists are required to provide to other members of a patient's healthcare team following your decision to prescribe to DL, by:
 - a. fax on 25 separate occasions; and
 - b. phone on two occasions.

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,
- 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.

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

- Standards 1 (sub-sections 1.1, 1.2, 1.4, and 1.7(b, c and d), 3 (sub-sections 3.1, 3.4, 3.5 and 3.6), 11 (sub-sections 11.6 and 11.9), and 14 (sub-sections 14.1, 14.3, 14.4, 14.5 and 14.10) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Principles 1(1), 1(2), 1(14), 1(15), 10(1) and 10(2) and 12(2) of the Alberta College of Pharmacy's Code of Ethics;

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)(vii)(B) and 1(1)(pp)(xii) of the *Health Professions Act*.

ACP Complaint 6774

IT IS ALLEGED THAT, as both a registered Alberta pharmacist and the licensee of Supreme Health Drug Therapy Management Clinic & Pharmacy (ACP License #3805), you:

1. Failed to collaborate with other health care professionals in your care of patient AH, including when you:
 - a. failed to contact Dr. H, AH's primary care physician after you altered AH's medications;
 - b. failed, between February 2, 2018 and August 30, 2018, to provide updates to AH's second primary care physician, Dr. R, including after you prescribed azithromycin and levofloxacin to AH for bacterial pneumonia on July 5, 2018 and July 13, 2018, respectively;
 - c. failed to update AH's nephrologist, Dr. P, of the changes you were making to AH's insulin, which resulted in Dr. P instructing you not to manage the nephrology aspects of AH's care;
 - d. failed to disclose your assessment modalities to the complainant, [GB], a clinical pharmacist who was part of AH's hospital care team after he was admitted to the Misericordia Hospital on July 13, 2018; and
2. Failed to exercise the clinical judgment expected of an Alberta pharmacist when you:
 - a. chose to prescribe an antibiotic (levofloxacin) to AH over the telephone even after you knew AH had previously failed on two courses of antibiotics (doxycycline and azithromycin);
 - b. chose to prescribe oseltamivir to AH over the phone on July 13, 2018;

- c. adjusted AH's insulin doses without consulting his nephrologist, Dr. P and after Dr. P instructed you not to manage the nephrology aspects of AH's care;
 - d. failed to consider standard diagnostic criteria when you assessed AH for AECOPD and pneumonia;
 - e. failed to self-reflect or consider how your prescribing decisions contributed to the outcome of AH; and
 - f. failed to respect the opinions of AH's hospital care team following his admission to the Misericordia Hospital on July 13, 2018, including when you said "[the hospital pharmacist] and her team showed incompetence and lack of knowledge about community acquired pneumonia and this jeopardized (sic) patient's health";
3. Demonstrated an ongoing pattern of behavior that displayed a failure to treat your colleagues with respect, including when you:
- a. stated or insinuated at least nine times in your written response to the complaint received October 11, 2018 that [GB], the complainant, was "lying";
 - b. stated AH's care team at the Misericordia Hospital was "incompetent";
 - c. described Dr. [R] as "incompetent" in your written response to the complaint received October 11, 2018;
 - d. described Dr. [H] as "incompetent" in your written response to the complaint received October 11, 2018;
 - e. questioned [GB]'s qualifications to serve as a clinical pharmacist in the ICU on the basis that she does not have a PharmD;
 - f. stated [GB] "doesn't have the skills and knowledge", was a "mentally unstable individual, "condescending", "arrogant" and "unprofessional"; and
 - g. were aggressive in a phone conversation with Dr. [P];
4. Attempted to mislead and failed to cooperate with an investigator appointed by the Complaints Director of the Alberta College of Pharmacy when you:
- a. falsely claimed that you faxed approximately 50 separate documents to other members of AH's medical team when only one physician, Dr. [P], received one partial fax;
 - b. falsely claimed that you did not personally fax documents before April 2018; and
 - c. lied about editing the audio recordings you sent to the investigator.

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,
- 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.

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

- Standards 1 (sub-sections 1.1, 1.2, 1.4 (a,c,d, and e), 1.5 and 1.7(b, c, d(ii) and d(iii)), 3, 11 (sub-sections 11.1(c), 11.2, 11.6 and 11.9), 14 (sub-sections 14.1, 14.2(c), 14.4, 14.5 and 14.10) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Principles 1(1), 1(2), 1(3), 1(14), 1(15), 5(6), 9(6), 10(1), 10(2), 10(10) and 12(2) of the Alberta College of Pharmacy's Code of Ethics;

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)(vii)(B) and 1(1)(pp)(xii) of the *Health Professions Act*.

ACP Complaint 6785

IT IS ALLEGED THAT, as both a registered Alberta pharmacist and the licensee of Supreme Health Drug Therapy Management Clinic & Pharmacy (ACP License #3805), you:

1. Failed to collaborate with other health care professionals in your care of patient DS when you:
 - a. failed to notify Dr. [LB], DS's primary care physician, of your prescribing activities, including prescriptions for dexamethasone (IM and oral), Florinef, valproic acid, Effexor, Lipitor, ketorolac, gabapentin, cetirizine, clonidine, glyburide, repaglinide, anafranil, ranitidine, hydroxyzine, pyridoxine, thiamiject, cyanocobalamin, injectable and oral vitamins and supplements and over the counter sleep remedies; and
 - b. failed to include DS's neurologist in your prescribing process;
2. Failed to exercise the clinical judgment expected of an Alberta pharmacist when you:
 - a. prescribed clonidine to DS on March 28, 2017 after she presented with "hypertensive emergency" and multiple systolic blood pressure readings over 180 mm Hg,
 - b. asked DS on March 28, 2017 to self-monitor her blood pressure after you determined she presented with a "hypertensive emergency" with multiple systolic blood pressure readings over 180 mm Hg,
 - c. did not follow up with DS for six days after you prescribed clonidine on March 28, 2017,
 - d. assessed DS on March 28, 2017 for organ damage in a community pharmacy setting,

- e. prescribed tramadol and venlafaxine (off-label) to DS on March 21, 2017 for diabetic neuropathy and then, on April 13, 2017, when DS mentioned she was experiencing “jerky movements” you assessed that DS had serotonin syndrome and without collaborating or referring DS to a physician decided to reduce the tramadol DS had been prescribed from 100 mg three times daily to 50 mg three times daily while simultaneously increasing the venlafaxine dose from 187.5 mg daily to 225 mg daily,
 - f. did not follow up with DS for 12 days after you altered DS’s tramadol and venlafaxine prescriptions,
 - g. prescribed atorvastatin for DS when it was contraindicated based on her medical history of a high CK level,
 - h. prescribed valproic acid for neuropathic pain when it was not indicated for this use by Health Canada based on a Mayo Clinic article in which it is used as a third-line medication,
 - i. prescribed clomipramine for myotonic dystrophy despite it not being indicated for this use by Health Canada based on a small crossover study mentioned in a review article,
 - j. prescribed and then refused to discontinue dexamethasone when DS’s primary care physician Dr. [LB]. informed you there was no indication for it,
 - k. inappropriately informed DS that dexamethasone could not cause bleeding when you said “it doesn’t cause any bleeding, nothing OK”,
 - l. failed to respect the opinions of other healthcare professionals caring for DS, including Dr. [LB],
 - m. determined you were satisfactorily monitoring DS’s hemoglobin A1c levels when they were >19%, and
 - n. failed to self-reflect or consider that your determination that DS diabetes was under control may have put DS at risk.
3. Failed to treat other healthcare professionals with respect, including when you chose to approach criticisms of your practice by calling Dr. [LB] a “liar”, “negligent”, “incompetent” or questioning her competency.
 4. Attempted to mislead an investigator appointed by the Complaints Director of the Alberta College of Pharmacy when you falsely claimed that you:
 - a. faxed approximately 57 documents to Dr. [LB] when she only received two documents from you on December 18, 2017 and January 23, 2018,
 - b. did not keep fax transmission logs before April 2018 when you had fax transmission logs for December 18, 2017 and January 23, 2018, and
 - c. did not personally fax documents before April 2018.

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,
- 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.

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

- Standards 1 (sub-sections 1.1, 1.2, 1.4 (a,c,d, and e), 1.5 and , and 1.7(b, c, d(ii) and d(iii)), 3, 11 (sub-sections 11.1, 11.2, 11.6 and 11.9), 14 (sub-sections 14.1, 14.2(c), 14.4, 14.5 and 14.10) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Principles 1(1), 1(2), 1(3), 1(14), 1(15), 5(6), 9(6), 10(1), 10(2), 10(10) and 12(2) of the Alberta College of Pharmacy's Code of Ethics;

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)(vii)(B) and 1(1)(pp)(xii) of the *Health Professions Act*.

ACP Complaint 6940

IT IS ALLEGED THAT while you were both a registered Alberta pharmacist and the licensee of Supreme Health Drug Therapy Management Clinic & Pharmacy (ACP License #3085), a practice inspection ordered by the Registrar of the Alberta College of Pharmacy on May 23, 2018 resulted in a review of seven patient files, which demonstrated that you:

1. Failed to notify other healthcare professionals involved with the care of your patients in Cases 1-7 of your prescribing activities.
 - a. There was a consistent pattern of failing to notify other health professionals involved in the care of your patients of your prescribing activities, and
 - b. there was little to no evidence that even one-way communication or notification had occurred.
2. Failed to collaborate with or appropriately refer to other health care professionals.
 - a. There was no evidence in any of the 7 cases of the level of reciprocal communication required for patients with complex medical issues.
 - b. You could not provide any specific examples of clinically significant interactions with other healthcare professionals,
 - c. The absence of collaboration and communication with other health care professionals created situations where patient safety was placed at risk.
 - d. You placed no value on the professional knowledge or contributions of other health care professionals.
 - e. Particulars of this failure to collaborate with or appropriately refer to other health care professionals include:

- i. In Case 1 when you diagnosed your patient with tonsillitis and did not consider referral to other healthcare professionals,
 - ii. in Case 2 when you:
 - a) did not collaborate with your patient's psychiatrist while treating the patient's depression disorder and migraines, and
 - b) did not refer or consider referring your patient to a physician to manage their chronic migraines.
 - iii. In Case 3 when you independently treated your patient for erectile dysfunction for approximately six months without referring the patient to a physician or other healthcare professional.
 - iv. In Case 6 when you:
 - a) prescribed a second round of maxitrol eyelid gel and did not consider alternative therapy or referral to another healthcare professional,
 - b) prescribed a compounded prescription to treat actinic keratosis and did not consider the value of obtaining assessment from other healthcare professionals with dermatological experience, and
 - c) failed to document obtaining or considering information from other healthcare professionals.
3. Ordered unnecessary or clinically inappropriate laboratory tests and then failed to appropriately consider or interpret those tests or to document the rationale or results of the tests, including:
 - a. In Case 1 when on or around May 19, 2017 you ordered 27 lab tests for your patient for routine screening without providing patient or condition specific rationale.
 - b. In Case 4 when you ordered laboratory tests for C-reactive protein, FSH, LH and parathyroid hormone when your patient was seeking your assistance for weight loss.
4. Failed to consider appropriate information when assessing patients, including:
 - a. In Case 1 when you
 - i. Diagnosed your patient with tonsillitis without considering differential diagnoses, and
 - ii. Provided 10 cyanocobalamin (vitamin B12) injections to your patient between May 25 – June 7, 2017 despite recorded levels being within the normal range on May 25, 2017.
 - b. In Case 3 when you failed to consider psychological factors contributing to your patient's erectile dysfunction.
 - c. In Case 5 when you did not consider alternative diagnoses for the patient's premature ejaculation.
 - d. In Case 7 when you did not appropriately prioritize your patient's drug problems.
5. Provided patients with information that was inadequate or inaccurate, including:
 - a. In Case 4 when you provided unrealistic expectations for drug therapy and weight loss to your patient.

- b. In Case 6 when you failed to explain how the established goal of therapy, blood pressure of 115/75 mmHg, was determined or how meeting this goal would be of clinical value in resolving the patient's tiredness.
6. Engaged in prescribing practices that were not rooted in sound evidence, best practice or even common practice and differed from decisions made by other pharmacists or healthcare professionals including:
 - a. routinely prescribing for indications that were not approved by Health Canada without using critical appraisal skills for evaluating evidence and without being able to provide adequate evidence or to support your decision, including:
 - i. In Case 4 when you:
 - a) prescribed bupropion 100mg SR for weight loss and your patient was not on caloric restriction and an exercise regimen,
 - b) prescribed metformin as an appetite suppressant up to a maximum dosing of 2.5g/day, and
 - c) prescribed topiramate 12.5mg HS for appetite suppression and weight loss.
 - ii. In Case 5 when you prescribed duloxetine for premature ejaculation based on a single study of 20 patients.
 - iii. In Case 6 when you prescribed fludrocortisone for orthostatic hypotension and fatigue.
 - iv. In Case 7 when you prescribed topiramate for weight loss and did so without any comprehensive exercise or diet plan.
 - b. prescribing treatments or medications in unsafe combinations, at unsafe doses or at doses that were not evidence-based in a manner contrary to best practices including:
 - i. In Case 1 when you:
 - a) prescribed four medications concurrently to treat shoulder pain, including rectal diclofenac and injectable ketorolac, and
 - b) diagnosed sinusitis and then after prescribing clarithromycin and beclomethasone and your patient developed systemic symptoms, you prescribed injectable dexamethasone followed by oral prednisone.
 - ii. In Case 2 when you prescribed multiple dose changes and new agents at the same time without allowing sufficient time to assess the effectiveness or safety.
 - iii. In Case 3 when you "prescribed" multiple herbal products (maca, Korean ginseng, tadalafil and tribulus terrestris) to treat your patient's erectile dysfunction that were either at subtherapeutic doses or lacked evidence of effectiveness.
 - iv. In Case 4 when you:
 - a) recommended a caloric intake well below safe levels as determined by Health Canada,

- b) prescribed liraglutide without recommending it be used in combination with a calorie restricted diet and exercise regimen, and
- c) prescribed chitosan and injectable B vitamins despite no evidence or poor evidence of their effectiveness.
- v. In Case 5 when you prescribed injectable tramadol, injectable ketorolac, oral baclofen and rectal diclofenac for joint pain.
- vi. In Case 6 when you
 - a) prescribed spironolactone for acne despite your patient being on medication to raise her blood pressure; and
 - b) prescribed diclofenac at a dose that doubled the maximum dose recommended by Health Canada based on a proprietary NSAID dosing chart published by MagellanRx Management, a non-Canadian pharmacy benefit manager.
- vii. In Case 7 when you:
 - a) did not consider drug therapy other than vitamin B12 for your patient's diabetic neuropathy,
 - b) prescribed levofloxacin and budesonide/formoterol for your patient's bacterial bronchitis and pneumonia and added prednisone when your patient did not respond to the other drugs,
 - c) diagnosed candida balanid on your patient's penis and instructed your patient to rub the area for 3-4 minutes four times daily, and
 - d) prescribed a combination of diclofenac, tramadol, injectable ketorolac and injectable dexamethasone concurrently with injectable lidocaine and did not use step therapy.
- 7. Failed to adequately consider over-the-counter or non-pharmacologic options for patient care, including:
 - a. including lifestyle changes such as dietary modifications to address you patient's obesity in Case 1; and
 - b. including lifestyle changes such as exercise, diet or referral to another healthcare professional in Case 4.
- 8. Responded inappropriately to drug therapy problems, including:
 - a. In Case 2
 - i. when you responded to a complaint of grogginess by concurrently lowering zopiclone and raising amitriptyline and then at a later date by concurrently raising zopiclone and lowering amitriptyline, and
 - ii. when you continued to treat a patient's migraines with naproxen despite noting that it appeared ineffective.
 - b. In Case 3 when you identified finasteride as a contributing factor to your patient's erectile dysfunction but did not consider stopping this medication.

9. Used inappropriate timeframes to assess efficacy of current therapy before making changes or adding additional therapy, including:
 - a. In Case 4 when you rapidly added, discontinued or changed medications and doses for various conditions without sufficient time to assess the effectiveness and safety of these medications.
10. Failed to appropriately monitor your patients, including:
 - a. In Case 1 when you did not monitor your patient for renal adverse effects from concurrent NSAID therapy or for adverse endocrine effects from concurrent corticosteroid therapy.
 - b. In Case 6 when you:
 - i. prescribed fludrocortisone to treat hypotension and by extension drowsiness and did not appropriately monitor your patient for adverse effects, including potassium levels, and
 - ii. did not monitor your patient's potassium levels despite her being on fludrocortisone and spironolactone concurrently.
 - c. In Case 7 when you did not address your patient's triglycerides in a timely manner and then once addressed, inappropriately monitored your patient for drug interactions and adverse effects.
11. Failed to adequately document treatment progress, outcomes, rationales, assessment and notification to other healthcare professionals, including:
 - a. In Case 1 when the patient complained of fatigue and you did not document specific treatment outcomes.
 - b. In Case 4 when you added, discontinued or changed medications or doses for various conditions without providing a rationale for doing so.
 - c. In Case 5 when you:
 - i. prescribed zopiclone to treat the symptom of difficulty sleeping and subsequently raised the dose without documentation that your patient showed a positive response to the treatment, and
 - ii. failed to document specific outcomes for your patient's premature ejaculation.
 - d. In Case 7 when you:
 - i. failed to sufficiently document your patient's plan or progress with his diabetes and smoking cessation.
12. Failed to demonstrate self-awareness to determine the limitations of your practice and the need for communication and collaboration with other health care professionals or to reflect on the decisions that you made,
13. Administered drugs by injection in an unsafe manner, including by administering multiple injectable medications in quantities that exceed best practice maximum of 1-2ml per deltoid muscle and with the addition of lidocaine for pain relief, as:
 - a. In Case 5 when you injected up to 8ml of six different injectable medications into your patient's deltoid muscles on February 22-23, 2018 and March 22-24, 2018 and prescribed and administered lidocaine to minimize pain without evidence to support this decision as being safe or effective.
 - b. In Case 6 when you:
 - i. administered injectable lidocaine to manage injection pain, and

- ii. injected up to 3 ml into the deltoid muscle.
- c. In Case 7 when you injected ranitidine to prevent GI dyspepsia despite no clear rationale for administration by this route.
- 14. Failed to respond honestly, openly and courteously to complaints and criticism of your practice, including when in your responses:
 - a. you were unable to accept any review or criticism from any source,
 - b. you failed to acknowledge or take any responsibility for your conduct,
 - c. you attacked the integrity and competence of anyone who raised concerns about your actions,
 - d. you stated that the inspectors' opinion regarding the potential for patient harm was irrelevant because there had been no instances of patient harm, and
 - e. you stated that lidocaine is very safe and "instead of being offensive and ignorant", the inspectors should have looked at your results.
- 15. Failed to treat your colleagues with respect when in your responses to the inspection and the complaint you suggested that M. Munchua and R. Patel were not qualified to assess your practice and described them as "lying", incompetent, having a "lack of experience", "lack of skills and knowledge" and suggesting that they could not read.
- 16. Attempted to mislead and failed to cooperate with an investigator appointed by the Complaints Director of the Alberta College of Pharmacy when you:
 - a. falsely claimed that you sent approximately 12 documents to Dr. [Q],
 - b. falsely claims that you sent approximately 15 documents to Dr. [R2],
 - c. falsely claimed that you sent approximately 5 documents to Dr. [E],
 - d. falsely claimed that you sent approximately 15 documents to Dr. [D] when she received only one document from you,
 - e. falsely claimed that you sent approximately 26 documents to Dr. [S] when he received only five documents from you,
 - f. falsely claimed that you sent approximately 21 documents to Dr. [Z] during your treatment of your mutual patient MS, when in fact you sent 13 of the 21 documents to Dr. [Z]'s office on June 5, 2018, after the inspection was ordered, and
 - g. falsely claimed that you did not personally fax documents before April 2018.

IT IS ALLEGED THAT your conduct in these matters:

- a. Breached your statutory and regulatory obligations to the Alberta College of Pharmacy as an Alberta pharmacist and a pharmacy licensee,
- b. Undermined the integrity of the profession,
- c. Created the potential for patient harm; and
- d. Failed to exercise the professional and ethical judgment expected and required of an Alberta pharmacist and a pharmacy licensee.

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

- Standards 1 (sub-sections 1.1, 1.2, 1.4, 1.5 and , and 1.7, 3 sub-sections 3.1(a), 3.7(b), 3.7(f), 3.8(a) and 3.8(c), 11 (sub-sections 11.1, 11.2, 11.6, 11.9 and 11.11), 14 (sub-sections 14.1, 14.4, 14.5, 14.8 and 14.10) and 18.4 of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Principles 1(1), 1(2), 1(7), 1(8), 1(14), 1(15), 2(3), 2(4), 5(6), 9(5), 9(6), 10(2), 10(10), 12(2) and 12(6) of the Alberta College of Pharmacy's Code of Ethics; 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)(vii)(B) and 1(1)(pp)(xii) of the *Health Professions Act*.

III. SUBMISSIONS OF THE COMPLAINTS DIRECTOR

The Complaints Director referred to the Hearing Tribunal's powers to impose sanctions in section 82 of the HPA. The Complaints Director then described the purposes of sanctions orders in professional discipline proceedings as: the protection of the public, maintaining the integrity of the pharmacy profession, fairness to the investigated member of the profession, and deterrence of similar conduct by the investigated member and of the profession as a whole.

The Complaints Director then reviewed factors relevant to the assessment of sanctions for Dr. Rizk, referring to *Casey, The Regulation of Professions in Canada* and to *Jaswal v. Newfoundland Medical Board* (1996), 42 Admin L.R. (2d) 233.

The first relevant factor described in the *Jaswal* case is the nature and gravity of the proven allegations. The Complaints Director submitted that the proven allegations fell into five categories of serious concern:

- a. Dr. Rizk demonstrated a lack of collaboration, consultation, or notification of other health professionals when treating patients with medications for serious, sometimes life-threatening conditions.
- b. Dr. Rizk demonstrated a lack of awareness of his own limitations and the scope of his practice as a pharmacist.
- c. Dr. Rizk demonstrated a lack of respect and courtesy for other health professionals with whom he interacted.
- d. Dr. Rizk's approach to clinical care created serious risks of patient harm.
- e. Dr. Rizk's conduct gave rise to a governability issue, by failing to comply with the College's standards of practice, by lying to the College's investigator, and by failing to fully cooperate with the College's inspectors attempting to determine his compliance with the November 17, 2018 interim order restricting him from prescribing Schedule 1 drugs and blood products.

The Complaints Director emphasized that each of these categories of unprofessional conduct by Dr. Rizk were exceptionally serious. Dr. Rizk's conduct represented a failure to act in his patient's best interests. He demonstrated a lack of insight into his own limitations, his role as part of a patient's health care team and a lack of clinical knowledge and judgment. The result of his conduct was to place his patients with serious, complex health conditions in danger. His unwillingness or his inability to respond honestly, openly, and courteously to complaints and concerns about his conduct was equally dangerous. It meant Dr. Rizk was unwilling or unable to recognize his own limitations. The Complaints Director submitted that each of the categories of unprofessional conduct by Dr. Rizk warranted severe sanctions.

The second relevant factor is the investigated member's age and experience. The Complaints Director submitted that Dr. Rizk is an experienced pharmacist. He had been registered to practice in Alberta since 2013. He obtained authorization to administer drugs by injection in 2014 and obtained his additional prescribing authorization in 2015. He became registered with the College as the licensee and sole owner of Supreme Health Drug Therapy Management Clinic & Pharmacy in 2016. Inexperience is therefore not a mitigating factor in this case. Given his experience and additional authorizations, Dr. Rizk should have been well-aware of the importance of adhering to the College's Standards of Practice and the Code of Ethics. He should have been particularly aware of his role as a collaborative member of his patient's care team. His prescribing authority did not allow him to treat patients to the exclusion of their other healthcare professionals, particularly their physicians.

The third relevant factor is the presence or absence of prior complaints or findings of unprofessional conduct. The Complaints Director's submissions advised the Hearing Tribunal that Dr. Rizk had one prior finding of unprofessional conduct. On January 31, 2018 a previous Hearing Tribunal accepted Dr. Rizk's admissions of unprofessional conduct and found him guilty of four allegations based on conduct between 2014 and 2017. These findings were that Dr. Rizk had:

1. Demonstrated an ongoing pattern of disrespectful conduct towards other health care professionals over an extended period of time,
2. Failed or refused to establish and maintain professional and collaborative relationships with other health care providers,
3. Failed to acknowledge or take any responsibility for his conduct when concerns were brought to his attention and frequently responded by attacking the integrity, honesty or competence of the person raising the concerns, and
4. Provided treatment to himself when he ordered a laboratory test.

The previous Hearing Tribunal accepted a joint submission on sanction and imposed a reprimand, the Probe course from the Centre for Personalized Education for Physicians ("CPEP"), an order for the payment of costs of \$10,000 within 24 months and an order that for five years from the Hearing Tribunal's decision Dr. Rizk would be required to

provide any pharmacy employer or licensee with a copy of the Hearing Tribunal's decision.

The Complaints Director argued that it was evident that since registering with the College in 2013, Dr. Rizk had consistently demonstrated a lack of respect for, courtesy towards and unwillingness to collaborate with, other health care professionals. The Complaints Director also suggested that Dr. Rizk's failure to change his behavior after the prior Hearing Tribunal's decision was an aggravating factor. Dr. Rizk had failed to develop any insight into the level of respect that a practicing pharmacist owes to other health professionals and to his own regulatory body. The Complaints Director then argued that the findings in this case call into question Dr. Rizk's sincerity when he represented that he understood and acknowledged his past unprofessional conduct.

The fourth relevant factor is the age and mental condition of the offended patients. The Complaints Director submitted that while Dr. Rizk did not take advantage of his patients because of their age or mental condition, their vulnerabilities arose from their complex and serious health conditions. The Complaints Director submitted that Dr. Rizk troublingly encouraged his patients to view him as the only healthcare provider they required, and he discouraged them from contacting other health professionals. This was very dangerous for patients who were encouraged not to consult with more qualified members of their health care team. The Complaints Director cited the Hearing Tribunal's conclusion that Dr. Rizk had a cavalier attitude towards his patients' health and safety.

The fifth relevant factor was the number of times the unprofessional conduct was proven to have occurred. The Complaints Director submitted that Dr. Rizk's proven unprofessional conduct with respect to his patients demonstrated a pattern across all ten of the patients whose records could be found in the record of the hearing. This included cases that Dr. Rizk had himself selected to be reviewed by the College's inspectors in Complaint 6940. This suggested that Dr. Rizk's proven unprofessional conduct was consistent across his whole practice.

The sixth relevant factor was Dr. Rizk's role in acknowledging what had occurred. Acknowledging that conduct was unprofessional can be a mitigating factor. Dr. Rizk did not acknowledge that his conduct was unprofessional, nor demonstrate any self-reflection or understanding of the seriousness of his conduct. However, the Complaints Director noted that he was not required to do so. The Hearing Tribunal did not consider this to be an aggravating factor.

The seventh relevant factor was whether Dr. Rizk had suffered other serious financial or other penalties as a result of the allegations having been made. The Complaints Director explained that Dr. Rizk's practice permit was suspended as of April 18, 2019 pursuant to a direction made under section 65 of the HPA upon application by the Complaints Director. The Complaints Director submitted that the concerns underlying the suspension were well founded given the Hearing Tribunal's findings of unprofessional conduct. The Hearing Tribunal noted that Dr. Rizk was suspended as of April 18, 2019 and remains suspended.

The eighth relevant factor was the impact of the proven unprofessional conduct on Dr. Rizk's patients. The Complaints Director summarized the proven impacts of Dr. Rizk's conduct on the patients whose records were before the Hearing Tribunal. The Complaints Director submitted that the Hearing Tribunal found that patient DL in Complaint 6463 was exposed to significant risks, some of which he actually experienced. The Hearing Tribunal found that patient AH in Complaint 6774 may have been discouraged from seeking out appropriate medical assistance and contributed to his outcome. Patient DS was also placed in a dangerous position by Dr. Rizk's decision to assess, diagnose and treat her in a community pharmacy setting with inadequate collaboration and follow-up. Further, the patients whose records were reviewed in Complaint 6940 were placed in dangerous positions by Dr. Rizk's belief that only he knew how to assess, diagnose and treat them.

The Complaints Director argued that Dr. Rizk's patients were negatively impacted by his decision to treat them in a siloed and uncollaborative environment. There the patients were exposed to Dr. Rizk's consistent lack of skill and judgment in the practice of pharmacy. They were placed at risk of major health complications, and in some cases a real risk of death or serious disability.

The ninth factor described in the *Jaswal* case is the presence or absence of mitigating circumstances. The Complaints Director submitted that he was not aware of any mitigating circumstances in this case. The Hearing Tribunal received no submissions from Dr. Rizk, as noted earlier.

The tenth relevant factor was the need for specific deterrence of similar future unprofessional conduct by Dr. Rizk and general deterrence of the profession as a whole. The Complaints Director submitted that sanctions should be imposed to make Dr. Rizk understand that his conduct was unprofessional and unacceptable. The Complaints Director argued that unfortunately, none of the evidence suggests that Dr. Rizk believed his conduct to be unprofessional, or even serious. The Complaints Director submitted that instead of responding to the concerns in an honest, open, and courteous way, Dr. Rizk responded disrespectfully and attempted to mislead the investigator. He suggested that his practice was superior to others, which was concerning, given the Hearing Tribunal found multiple instances of Dr. Rizk placing his patients at serious risk of harm. The Complaints Director submitted that Dr. Rizk cannot be trusted to; self-reflect, collaborate, notify or respect other health care professionals, practice safely within the limits of his knowledge and scope as a pharmacist, or cooperate with the College. The Complaints Director argued that Dr. Rizk has demonstrated he cannot be trusted to alter his behavior and his practice, so the sanctions must deter him and protect the public by ensuring he is unable to continue to practice in this manner.

The Complaints Director submitted that in terms of general deterrence the sanctions must demonstrate that breaching or refusing to comply with the College's Standards of Practice and Code of Ethics will result in severe sanctions.

The eleventh relevant factor was the need to maintain public confidence in the integrity of the pharmacy profession in Alberta. The Hearing Tribunal found Dr. Rizk to have

breached many obligations the public expect pharmacists to meet. The Complaints Director submitted that the sanctions must be very serious otherwise the public and other professionals may lose confidence in the pharmacy profession and its proper regulation.

The twelfth relevant factor was the degree to which Dr. Rizk's conduct was clearly outside the range of permitted conduct. The Complaints Director argued that the proven allegations demonstrated Dr. Rizk's unwillingness and disregard for the regulatory framework of the pharmacy profession, including the standards that prescribing pharmacists are expected to meet. Conduct that demonstrates an unwillingness to comply with the fundamental duties of a pharmacist to his or her profession and that places the public at risk of harm is clearly far beyond the range of permitted conduct.

The final relevant factor was the range of sanctions imposed in other, similar cases. The Complaints Director submitted that there are no previous cases involving proven unprofessional conduct across all the categories engaged in by Dr. Rizk. The Complaints Director did refer to previous cases involving some of those categories of unprofessional conduct.

In the category of a lack of respect and courtesy for other healthcare professionals, the Complaints Director referred to Dr. Rizk's previous findings of unprofessional conduct. Dr. Rizk's proven unprofessional conduct was similar to the current findings and he was sanctioned with a reprimand, the PROBE course, \$10,000 in costs and an order for the Hearing Tribunal's decision to be disclosed to other pharmacy employers and licensees for a period of five years. The Complaints Director submitted that despite that previous decision, Dr. Rizk continued to treat other health care professionals and College staff with a lack of respect and courtesy. This demonstrated that Dr. Rizk had failed to develop any insight into the level of respect he owed to colleagues and regulatory staff. The sanctions to be imposed in this case should therefore be more severe, even if this was the only issue with Dr. Rizk's conduct.

In the category of Dr. Rizk's clinical care demonstrating a serious risk of harm to patients, the Complaints Director referred to the 2019 case of Mr. Ibrahim and the Alberta College of Pharmacy. Mr. Ibrahim admitted, and was found to have personally dispensed over 800 prescriptions daily, failed to upload a significant portion of the dispensing events to NETCARE, failed to identify numerous drug errors or discrepancies, failed to properly review NETCARE files prior to dispensing, failed to sufficiently document treatment plans and goals of therapy for opioid patients and failed to employ sufficient pharmacy staff to properly and safely provide the documented services to the pharmacy's patients, among other issues. The Hearing Tribunal accepted a joint submission on sanctions for Mr. Ibrahim to be suspended for; 24 months or until he had completed the PROBE course whichever took longer, a cumulative \$20,000 fine, that he not serve as a licensee, owner or proprietor for five years, and that on returning to practice he disclose the Tribunal's decision to any pharmacy employers and those employers report to the Complaints Director for one year. Mr. Ibrahim was also ordered to pay costs of \$25,000.

In the category of failing to comply with a fundamental expectation of pharmacy practice, the Complaints Director referred to the case of Mr. Abu Zahra and the Alberta College of

Pharmacy. Mr. Abu Zahra was found to have dispensed triplicate prescription drugs without a triplicate program prescription, failed to comply with requirements of the triplicate prescription program and inappropriately created procedures to facilitate the ongoing dispensing of triplicate prescription program medications without the required prescriptions. The Complaints Director drew a parallel between the importance of complying with the requirements of the triplicate prescription program and the importance of complying with the College Standards of Practice. Following a contested hearing the Hearing Tribunal imposed sanctions on Mr. Abu Zahra including a suspension of three months and that he must pass the College's Ethics and Jurisprudence examination before reinstatement. Mr. Abu Zahra was also required to provide the Hearing Tribunal's decision to any pharmacy employer for one year upon returning to practice and he was prohibited from serving as an owner, proprietor or licensee for two years. He was also required to; pay a \$5,000 fine, the costs of the hearing, and he would be subject to College inspection to ensure compliance with the triplicate prescription program requirements. The Complaints Director submitted that Dr. Rizk's conduct was more severe than Mr. Abu Zahra's since Dr. Rizk was a prescribing pharmacist, having taken on and exercised an added level of responsibility and scope of practice.

The Complaints Director next referred to cases in which pharmacists were found to have demonstrated indicia of ungovernability. These cases all resulted in very severe sanctions. The Complaints Director submitted that Dr. Rizk demonstrated ungovernability through his fundamental failure to respect the College's standards of practice for a prescribing pharmacist, through his attempts to mislead the College's investigator in all four complaint investigations and in his failure to cooperate with the College's inspectors.

The first of these past cases was the case of Mr. Greg Rudy and the Alberta College Pharmacists. Mr. Rudy was found to have refused to cooperate with an investigation into his conduct seeking records and information. He advised the investigator he had destroyed the records of the pharmacy and he failed to appear at his hearing. Mr. Rudy's conduct was held to have been an egregious breach of his obligations and he was sanctioned with fines in the cumulative amount of \$30,000, an order that his registration be permanently cancelled and that he pay all of the investigation and hearing costs. Mr. Rudy appealed, but the Council of the College held that Mr. Rudy had made it clear that he did not recognize the College's authority to provide regulatory oversight. He had proven himself ungovernable. The appeal was dismissed.

The Complaints Director also referred to the case of Mr. Philip Leung and the Alberta College of Pharmacists. Mr. Leung was found not to have cooperated with the Complaints Director's investigation into his alleged theft of narcotics. The Hearing Tribunal held that pharmacists have an obligation to conduct themselves according to professional and ethical standards, and to be accountable and responsive to their regulatory authority. The failure to cooperate undermined self-regulation and placed it in peril. The Tribunal held there could be zero tolerance for pharmacists who exhibit ungovernability like Mr. Leung. The Tribunal imposed a \$10,000 fine and ordered Mr. Leung's registration and practice permit to be cancelled. He was also ordered to pay the costs of the investigation and hearing.

In the matter of Mr. Andrew Wong and the Alberta College of Pharmacists, Mr. Wong was found to have intentionally misled the College and a previous discipline tribunal as to the cessation of his internet pharmacy business and other activities not approved by the College. Mr. Wong was held to have been ungovernable and unwilling to respect the authority of a self-regulating profession. He lacked honesty and integrity and he was incapable of the trust and accountability necessary to be permitted to practice as a pharmacist. Mr. Wong's registration was revoked, he was fined \$10,000 and ordered to also pay the total costs of the investigation.

The Complaints Director also referred to the case of Mr. Sinan Hadi and the Alberta College of Pharmacy. In that case Mr. Hadi was found to have sexually assaulted and unlawfully confined a minor. He had also failed to inform his employer or the College of the related criminal charges against him and he failed to cooperate with the College's investigator. The Hearing Tribunal found Mr. Hadi's persistent failure to cooperate with the investigator suggested a lack of indicia of governability upon which the effective regulation of a self-governing profession depends. It also held that it would be incongruous to allow an individual whose proven conduct was fundamentally inconsistent with the pharmacists' position of trust to remain entitled to practice. Despite the lack of a prior discipline history, Mr. Hadi's registration was cancelled, and he was ordered to pay the full costs of the investigation and hearing.

The Complaints Director proposed the following sanctions orders for Dr. Rizk pursuant to section 82 of the HPA:

1. Dr. Rizk's registration with the Alberta College of Pharmacy should be cancelled.
2. Dr. Rizk should pay a fine of \$10,000 for each of the five categories of unprofessional conduct in complaints 6463, 6774, 6785 and 6940 for a cumulative total fine of \$50,000 to be paid in full within 180 days from date of the Hearing Tribunal's written decision on sanctions.
3. If Dr. Rizk is ever readmitted as a pharmacist in Alberta, he should be prohibited from serving as a pharmacy licensee, proprietor or owner for a period of 10 years from the date of his readmission to the profession.
4. If Dr. Rizk is not re-admitted as a pharmacist in Alberta, he shall be prohibited from ever being a proprietor or owner of a pharmacy; and
5. Dr. Rizk shall pay the costs of the investigation and hearing of these matters within 24 months of the date of the Hearing Tribunal's written decision on sanctions pursuant to a payment schedule acceptable to the Hearings Director.

In relation to the cancellation order, the Complaints Director submitted that each of the five categories of Dr. Rizk's proven unprofessional conduct would warrant a significant suspension and other sanctions. When considered together, Dr. Rizk's conduct warrants

cancellation. He cannot be trusted to uphold the Standards of Practice, abide by the Code of Ethics or practice within the limitations of his knowledge and scope. He has also demonstrated that he cannot be trusted and regulated by the College.

This is evident from his failure or refusal to acknowledge his own unprofessional conduct. Instead of recognizing that his additional prescribing authority carries with it an obligation to respect his role within the overall care team and practice within his limitations, he generally responded by questioning the credentials of those raising the concerns and making disparaging remarks about them. There was no indication from Dr. Rizk that he was prepared to reflect and consider whether his practice should change. This was also evident since Dr. Rizk had previously been sanctioned for similar unprofessional conduct and he had demonstrated his inability to change. The Complaints Director argued that Dr. Rizk is ungovernable and he cannot be regulated.

In relation to the fines, the Complaints Director submitted that each of the five categories of Dr. Rizk's unprofessional conduct were very serious. Because future cases may involve some, but not all of the same categories of unprofessional conduct, sanctions should be attributed to each of those categories to reflect how serious the Hearing Tribunal considers them to be and to achieve the necessary deterrent effect. The Complaints Director suggested that each category should warrant a \$10,000 fine. In this case, assessed cumulatively this would result in the maximum \$50,000 fine.

In relation to the proposed orders prohibiting Dr. Rizk from serving as a pharmacy licensee, owner or proprietor, the Complaints Director submitted that those positions carry legal obligations to ensure pharmacies operate and maintain pharmacy records according to the HPA, the *Pharmacy and Drug Act*, the Standards of Practice for Pharmacists and Pharmacy Technicians, and the Code of Ethics. Dr. Rizk's proven unprofessional conduct demonstrates that he is unwilling, or unable to fulfill these obligations. This is true whether Dr. Rizk were to be practicing on the College's clinical register, or whether he were to employ or supervise other pharmacy staff. Dr. Rizk's demonstrated pattern of disrespect for the expertise of other members of the healthcare team makes it very unlikely that any pharmacy in which he is involved could operate and fulfill its legal obligations without inappropriate influence from Dr. Rizk.

Regarding the order for the payment of costs, the Complaints Director submitted that the College and its members should not bear the costs of the investigation and hearing. These costs only arose because of Dr. Rizk's proven unprofessional conduct. Dr. Rizk ought to have been well aware that his conduct was unprofessional and could result in significant costs consequences given his prior discipline history.

The Complaints Director submitted that the costs of the investigation and hearing up to October 21, 2020, prior to the Complaints Director's submissions on sanctions, were \$234,527.02. The Complaints Director suggested that the total costs after submissions on sanctions were prepared and the Hearing Tribunal had made its decision on sanctions may well exceed \$250,000.

The Complaints Director referred to *Lysons v. Alberta Land Surveyors' Association*, 2017 ABCA 7 and *Alberta College of Physical Therapists v. Fitzpatrick*, 2015 ABCA 95, to establish that requiring the investigated professional to pay substantial investigation and hearing costs is common. Further, the Complaints Director referenced *Erdmann v. Complaint Inquiry Committee*, 2013 ABCA 147 and *Zuk v. Alberta Dental Association and College*, 2018 ABCA 270 in which substantial costs orders were held to have been reasonable. The Complaints Director then referenced costs factors from the *Jaswal v. Newfoundland Medical Board* case and argued that in this case all of the allegations in the four notices of hearing were proven and found to have constituted unprofessional conduct. None of the allegations were dismissed. No unnecessary witnesses were called so no hearing time was wasted. While the merits hearing was completed in four days, there were prior applications and preliminary matters, including the application to the section 65 committee that contributed to the overall costs. There was also no possibility of streamlining the hearing with agreed facts or exhibits since Dr. Rizk elected not to participate. As a result, there was no reason to discount the overall costs and Dr. Rizk should be ordered to pay the full costs within 24 months.

IV. DECISION ON ORDERS

The Hearing Tribunal has carefully considered the evidence, the findings of unprofessional conduct and the Complaints Director's submissions on sanctions. The Hearing Tribunal notes that Dr. Rizk was given an opportunity to make submissions on sanctions, but none were received. The Hearing Tribunal makes the following orders pursuant to section 82 of the *Health Professions Act*:

1. Dr. Rizk's registration with the Alberta College of Pharmacy is cancelled.
2. Dr. Rizk shall pay a fine of \$10,000 for each of the five categories of unprofessional conduct in Complaints 6463, 6774, 6785 and 6940 for a cumulative fine of \$50,000 to be paid in full within 180 days from the date of this written decision on sanctions.
3. If Dr. Rizk is ever again registered with the College as a pharmacist in Alberta, he shall be prohibited from serving as a pharmacy licensee, proprietor, or owner for a period of 10 years from the date of his registration.
4. If Dr. Rizk is not re-registered with the College as a pharmacist in Alberta, he shall be prohibited from ever serving as a proprietor or owner of a pharmacy; and
5. Dr. Rizk shall pay the costs of the investigation and hearing of these matters within 24 months of the date of this written decision on sanctions pursuant to a payment schedule acceptable to the Hearings Director.

V. REASONS FOR DECISION ON ORDERS

Pharmacists are very important members of the healthcare team. They are experts in drug therapy. The scope of clinical pharmacy practice in Alberta is broad, and pharmacists who have obtained additional prescribing authority from the College may independently prescribe medication therapies. This broad scope of practice serves the public's best interests. Pharmacists should be encouraged to exercise their full scope of practice in order to properly serve and care for Albertans, provided they do so properly, according to the Standards of Practice and the Code of Ethics, and by putting their patients' best interests first.

This case represents a gross departure from the College's Standards of Practice, the Code of Ethics and from the scope of Dr. Rizk's additional prescribing authority. The Hearing Tribunal condemns Dr. Rizk's proven conduct in the strongest possible terms. Dr. Rizk abused his additional prescribing authority to experiment on patients with apparent disregard for their well-being. His conduct is a black mark on the profession and harmful in the eyes of the public.

The Hearing Tribunal found Dr. Rizk to have committed unprofessional conduct as alleged in thirty allegations in four Notices of Hearing. Three of those Notices arose from unrelated complaints by other health professionals. The fourth arose from an inspection initiated through the College. The Complaints Director grouped the Hearing Tribunal's findings of unprofessional conduct into five categories. The Hearing Tribunal reviewed and accepted those categories as useful consolidations of the findings. They are as follows:

- a. Lack of collaboration, consultation, or notification of other health professionals when treating patients with medications for serious, sometimes life-threatening conditions.
- b. Lack of awareness of Dr. Rizk's own limitations and the scope of his practice as a pharmacist.
- c. Lack of respect and courtesy for other health professionals with whom Dr. Rizk interacted.
- d. Dr. Rizk's approach to clinical care created serious risks of patient harm.
- e. Governability issues.

Each of these categories of unprofessional conduct is extremely serious and warrants serious sanctions. Each case must be considered on its own, but pharmacists who engage in any of these types of unprofessional conduct would be unable to safely fulfil their very important roles as members of the healthcare team. Pharmacists found to have committed any of these categories of unprofessional conduct would at least require remedial education and a period of suspension for self-reflection commensurate with the scope and severity of their unprofessional conduct. This would be necessary to permit the pharmacist to understand and appreciate their unprofessional conduct, the risks they created for their patients, their proper role within the healthcare team and to deter similar, future unprofessional conduct. The cumulative effect of multiple categories of unprofessional conduct may warrant more severe sanctions up to and including cancellation.

Ungovernable conduct is different. Not every breach of a standard of practice or other incident of unprofessional conduct makes a pharmacist ungovernable, but a pharmacist found to be ungovernable cannot be regulated and cannot be trusted to practice pharmacy in the public's best interests. Ungovernable conduct warrants cancellation.

Pharmacists must understand that their ultimate objective and the reason they have the privilege to practice their profession is to serve the best interests of their patients. This is prescribed by the College's Standards of Practice for Pharmacists and Pharmacy Technicians, including Standard 1.4. That Standard also makes very clear that when required to serve the best interests of the patient, each pharmacist and pharmacy technician must work collaboratively with colleagues, including other regulated health professionals, in the provision of pharmacist and pharmacy technician services. Standards such as Standard 11, make clear that pharmacists who prescribe drugs have specific duties to communicate and collaborate with other regulated health professionals who care for the patient. The Standards of Practice are not arbitrary. They exist to ensure that the patient's best interests are placed first.

Dr. Rizk's proven unprofessional conduct demonstrated a lack of collaboration, consultation, and notifications of other healthcare professionals, but also a lack of insight into the importance of doing so. He seemed to be more interested in experimenting on his patients for his own gratification and this no doubt influenced his decisions not to confer with his patients' physicians. When questioned about his approach Dr. Rizk refused to acknowledge there could be anything wrong with it. He responded instead by impugning the qualifications of the people raising concerns and disparaging them. He appeared to believe that his qualifications were somehow superior to all others including his patients' physicians, and he maintained these beliefs even when confronted with serious concerns about his patient care. Dr. Rizk's belief that he could diagnose his patients with serious health conditions and prescribe drugs without referring them to qualified diagnosticians was dangerous for his patients and alarming to the Hearing Tribunal. It represented a fundamental misunderstanding of the prescribing clinical pharmacist's scope of practice.

Pharmacists have an obligation to practice within the limits of their own competence and to make appropriate use of the availability and expertise of other healthcare professionals. This is prescribed in Standard of Practice 1.4. Dr. Rizk demonstrated that he was unwilling to do this, or unable to understand why it was important. He instead treated those other healthcare professionals with a lack of courtesy and respect. This is not just a matter of a lack of courtesy and respect or rudeness being undesirable. Pharmacists who treat other healthcare professionals with a lack of courtesy and respect will be unable to recognize that those other healthcare professionals may have important information or insights about patients that should be considered. Pharmacists cannot practice safely in a siloed environment. Treating other healthcare professionals with courtesy and respect, even in the face of disagreements, is essential to avoid creating silos which put patients at risk.

Dr. Rizk's response to the complaints and the College's investigations was egregious. He actively tried to mislead the investigator by falsely suggesting he had been appropriately corresponding with his patients' physicians about their care. He also altered audio recordings he made of conversations and then misrepresented those recordings as unaltered. Dr. Rizk's altered audio recording of his conversation with Ms. [GB] was an example of this. This combined with Dr. Rizk's decision not to attend the hearing were some indicia of his ungovernability.

Taken as a whole, Dr. Rizk's proven unprofessional conduct was extremely serious. The Hearing Tribunal was gravely concerned at the prospect of Dr. Rizk being permitted to return to pharmacy practice.

Dr. Rizk was not new to the practice of pharmacy at the time of his proven unprofessional conduct. There was no basis to attribute his conduct to a lack of experience. He had been practicing in Alberta for several years at the times in question, he had obtained additional authorizations to administer drugs by injection and to prescribe drugs and he served as a pharmacy licensee beginning in 2016. Dr. Rizk also had a previous discipline case that is important to consider. In a decision dated January 31, 2018, which was prior to at least some of the proven unprofessional conduct in this case, Dr. Rizk was found guilty of unprofessional conduct by a previous Hearing Tribunal. Dr. Rizk admitted that he demonstrated a pattern of disrespectful conduct towards other healthcare professionals over an extended period of time, including by being aggressive, demeaning, accusatory, demanding, belittling and dominating. Dr. Rizk also admitted that he had failed or refused to establish and maintain collaborative professional relationships with other healthcare providers. He admitted that he failed to acknowledge or take responsibility for his conduct when concerns were brought to his attention and he responded by attacking the integrity, honesty or competence of the person raising concerns. Dr. Rizk's prior unprofessional conduct resulted in a reprimand, an order that he complete the CPEP Probe course and that he pay a \$10,000 fine and notify any pharmacy employers or licensees of the decision for five years.

Dr. Rizk's prior unprofessional conduct was very similar to the current findings of unprofessional conduct. It is apparent to the Hearing Tribunal that Dr. Rizk has not accepted that his prior conduct was actually problematic. He has not demonstrated a willingness or ability to adapt and abide by the College's Standards of Practice and Code of Ethics. In fact, it appears that Dr. Rizk continued his pattern of unprofessional conduct even while dealing with his prior discipline case. The Hearing Tribunal considered this to be unconscionable and an indicator of Dr. Rizk's ungovernability. The sanctions to be imposed in this case would have to be more severe than were imposed by the previous Hearing Tribunal in order to adequately deter Dr. Rizk from similar unprofessional conduct in the future. The Tribunal is gravely concerned that deterring Dr. Rizk from repeating his unprofessional conduct is not possible. This suggests that cancellation is the appropriate order to make in this case.

The Hearing Tribunal considered that none of Dr. Rizk's patients were minors, nor particularly vulnerable individuals, but they went to him for help with what were in many cases serious medical conditions. Members of the public rely on regulated health

professionals for advice. In that sense Dr. Rizk's patients were vulnerable to his abuses of his authority to prescribe drugs. The public should be entitled to expect that regulated professionals like Dr. Rizk would recognize their own limitations and refer them to other, more qualified professionals when appropriate. Dr. Rizk took advantage of his patients' vulnerabilities. For example, he encouraged patient DS not to listen to her physician about the risks of taking oral dexamethasone to treat her pain, or about the use of Tylenol as a safer alternative. In fact, Dr. Rizk created an environment in which the patients were forced into a situation where they had to choose a healthcare practitioner, himself or their physician. This represents a gross breach of standards of practice.

The Hearing Tribunal also considered that Dr. Rizk's proven unprofessional conduct occurred over a period of years that overlapped with his admitted unprofessional conduct in his prior discipline case, and across multiple patients. Inspectors Munchua and Patel from the College even discovered unprofessional conduct in their review of patient records that Dr. Rizk himself selected for their review. This suggested that Dr. Rizk's unprofessional conduct was consistent across his whole practice. This was a further indication that Dr. Rizk's unprofessional conduct could not be rectified and adequately deterred. It also pointed to cancellation as the most appropriate sanction.

Dr. Rizk did not admit any of the allegations of unprofessional conduct in this case or attend the hearing. Dr. Rizk was not required to admit any of the allegations and the Hearing Tribunal has not considered this to be aggravating or mitigating in relation to sanctions.

The Hearing Tribunal acknowledges that Dr. Rizk has been suspended pursuant to section 65 of the HPA since April 18, 2019. The Tribunal was not provided with any other evidence of mitigating factors, such as any evidence that Dr. Rizk suffered other financial or other consequences of the allegations having been made.

Dr. Rizk's conduct placed his patients at serious risk. For example, the Hearing Tribunal found that Dr. Rizk's unprofessional conduct exposed DL to cardiac risks, blurred vision which may have indicated neurological complications and other side effects. Dr. Rizk's conduct may have also discouraged AH from seeking out appropriate medical attention and contributed to his difficult hospitalization in ICU. Dr. Rizk's decision to diagnose DS with serotonin syndrome and adjust her medications himself was very dangerous. Serotonin syndrome is potentially life-threatening and Dr. Rizk should have immediately referred DS to an emergency department. His decision to prescribe a statin drug for DS without consulting her physician also placed her at risk of rhabdomyolysis, a condition that she was predisposed to, and in an earlier trial of statins had her CK levels go dangerously high, which could have led to another potentially fatal condition. Dr. Rizk made the decision to prescribe oral steroid therapy to DS for pain control, when the recommended treatment was an injection into the bursa. DS was diabetic and this treatment caused her A1C to rise to dangerously high levels.

The Hearing Tribunal considered the need for deterrence. Other members of the pharmacy profession may be adequately deterred from engaging in unprofessional conduct similar to Dr. Rizk's without an order for cancellation. The Tribunal is gravely concerned that

Dr. Rizk's proven unprofessional conduct in this case, combined with his similar previous findings of unprofessional conduct mean that he is unwilling or incapable of adapting and complying with the Standards of Practice and the Code of Ethics. He also appears to be unwilling or unable to cooperate with the College as his regulator. This suggests that Dr. Rizk cannot be adequately deterred from repeating his unprofessional conduct. It points to cancellation as the appropriate sanction for Dr. Rizk. This will also have a deterrent effect on other members of the profession, as will the proposed fines and orders prohibiting Dr. Rizk from serving as licensee, owner or proprietor.

The Hearing Tribunal also considered that Dr. Rizk's proven unprofessional conduct was clearly beyond the range of what was acceptable, and it considered the need for sanctions to maintain public confidence in the profession. The public should be entitled to expect that the College will regulate its members in their best interests, including through the imposition of appropriate sanctions for unprofessional conduct. In this case Dr. Rizk was found guilty of thirty allegations of unprofessional conduct, some of which placed his patients in considerable danger. He abused his prescribing authorization by experimenting on his patients, seemingly for his own gratification. This was in addition to the similar, previous findings of unprofessional conduct against Dr. Rizk for which he received a reprimand, a fine and took the CPEP PROBE course. The Hearing Tribunal believes the public would lose confidence in the pharmacy profession if Dr. Rizk's registration with the College is not cancelled.

The Hearing Tribunal also considered the cases referenced by the Complaints Director. There are fortunately no other cases in which pharmacists have engaged in a pattern of unprofessional conduct comparable to Dr. Rizk's. There are other cases in which pharmacists have been found to have engaged in some of the same types of unprofessional conduct.

In the case of Mohamed Ibrahim, Mr. Ibrahim was held to have engaged in conduct that demonstrated a serious risk of harm to his patients. The Hearing Tribunal accepted a joint submission, including for a 24-month suspension, a requirement to complete the CPEP PROBE course, a cumulative \$20,000 fine and a prohibition on serving as a pharmacy licensee, owner or proprietor for five years. The scope of Dr. Rizk's proven unprofessional conduct was broader than Mr. Ibrahim's. Dr. Rizk also had a related prior discipline history that the Tribunal considered a significant aggravating factor. Mr. Ibrahim had a prior discipline history, but for unrelated conduct.

In the case of Rajeh Abu Zahra, Mr. Abu Zahra was held to have failed to comply with a fundamental expectation of pharmacy practice. This related to complying with the requirements of the triplicate prescription program. He received sanctions including a three-month suspension and an order to complete the College's ethics and jurisprudence examination. Mr. Abu Zahra's unprofessional conduct was serious, but Dr. Rizk's was broader in scope and severity. Dr. Rizk also had a similar prior discipline history and he had demonstrated his unwillingness or inability to learn and adapt his practice.

In the cases of Greg Rudy, Philip Leung and Andrew Wong, the investigated pharmacists failed or refused to comply with their obligations to cooperate with the College's

investigations. Mr. Rudy was held to have destroyed pharmacy records that were required for the investigation into his conduct. Mr. Leung refused to cooperate with the investigation into his conduct and Mr. Wong was held to have intentionally misled the College about the cessation of his internet pharmacy business. This type of conduct was held to strike at the heart of the process of self-regulation of pharmacists and the integrity of the profession. It was indicative of ungovernability.

After considering the evidence before it, the findings of unprofessional conduct, and the Complaints Director's submissions the Hearing Tribunal has decided to impose the sanctions orders proposed by the Complaints Director. The order cancelling Dr. Rizk's registration is necessary and appropriate. The Hearing Tribunal considered whether a lesser sanction would be adequate but determined it would not. Dr. Rizk's proven unprofessional conduct demonstrates a pattern of extremely serious conduct over multiple years and across his entire pharmacy practice. Combined with the similar prior findings of unprofessional conduct, the Tribunal does not believe Dr. Rizk is capable of remediate his conduct and practicing safely in the future.

Dr. Rizk's siloed approach to his practice placed his patients in danger and was fundamentally inconsistent with his obligations as a prescribing clinical pharmacist. Dr Rizk failed to collaborate, consult with or even notify his patient's other health care professionals when he made significant changes to their drug regimens. Yet he demonstrated a shocking lack of awareness of his own limitations, or of the serious risks of harm he created. When questioned about his approach Dr. Rizk responded not by reflecting on his patients' best interests, but by lashing out at those who would dare to question him. This was very dangerous for his patients.

Dr. Rizk's proven unprofessional conduct also demonstrated several indicia of ungovernability. His proven unprofessional conduct appeared to continue even after admitting similar previous allegations and entering into a joint submission on sanctions. This suggests that the College's discipline process held no meaning for Dr. Rizk. He attempted to mislead the College's investigator about his correspondence with his patients' physicians. He also provided edited audio recordings he had made of conversations and represented them to the College's investigator as complete.

The Hearing Tribunal also considered the proposed fines to be appropriate in this case. Section 82(1)(k) of the HPA authorizes the Tribunal to direct Dr. Rizk to pay fines according to the unprofessional conduct fines table in section 158 of the HPA. Schedule 19 of the HPA applies to the Alberta College of Pharmacy. It provides that column 3 of the unprofessional conduct fines table applies to proceedings of the Alberta College of Pharmacy. Column 3 provides that the maximum fine that can be imposed for each finding of unprofessional conduct is \$10,000 and the maximum aggregate fine that can be imposed for all findings of unprofessional conduct arising out of a hearing is \$50,000. The Complaints Director therefore proposed that Dr. Rizk be directed to pay the maximum aggregate fine arising from the hearing.

The Hearing Tribunal considered that it was appropriate to direct that Dr. Rizk pay a fine of \$10,000 for each category of findings of unprofessional conduct. The Tribunal

therefore directs that Dr. Rizk pay a fine of \$10,000 for each of the following categories of conduct:

- a. Lack of collaboration, consultation, or notification of other health professionals when treating patients with medications for serious, sometimes life-threatening conditions.
- b. Lack of awareness of Dr. Rizk's own limitations and the scope of his practice as a pharmacist.
- c. Lack of respect and courtesy for other health professionals with whom Dr. Rizk interacted.
- d. Dr. Rizk's approach to clinical care created serious risks of patient harm.
- e. Governability issues.

Substantial fines recognize the severity of Dr. Rizk's proven unprofessional conduct and condemn it. The fines may have an impact on Dr. Rizk, but they also serve a very important deterrent effect on other members of the pharmacy profession. The Tribunal considered that its decision will be published, and other members of the profession will take note that conduct similar to Dr. Rizk's proven unprofessional conduct can result in a substantial fine. The Tribunal also considered fines to be appropriate because there should be no financial incentive to engage in unprofessional conduct similar to Dr. Rizk's. The Tribunal noted that substantial fines were imposed in Dr. Rizk's previous discipline case, as well as in the cases of Mr. Ibrahim, Mr. Abu Zahra, Mr. Rudy, Mr. Leung, and Mr. Wong. The aggregate \$50,000 fine is larger than the fines imposed in these prior cases, but the Tribunal considered that \$50,000 is proportional to the scope and repeat nature of Dr. Rizk's proven unprofessional conduct.

The Hearing Tribunal accepts the Complaints Director proposal that in the event Dr. Rizk is ever re-registered with the College he shall be prohibited from serving as a pharmacy licensee, proprietor or owner of a pharmacy for 10 years from the date of registration, or if not re-registered he shall be prohibited from serving as a pharmacy proprietor or owner. Dr. Rizk has demonstrated that he is unwilling or unable to properly oversee the operation of a pharmacy or the creation and maintenance of pharmacy records in accordance with the *Pharmacy and Drug Act*, the Standards of Practice and the Code of Ethics. Much of Dr. Rizk's proven unprofessional conduct occurred in an environment with no checks and balances. There was no one to oversee his practice or question his approach. While many Alberta pharmacists provide excellent care from very small pharmacies with few other staff, Dr. Rizk's conduct demonstrated that he is incapable of doing so safely and according to the College's Standards and Code of Ethics. A pharmacy licensee and/or proprietor exert significant control over the operations of a pharmacy including its personnel, policies and procedures, and adherence to standards of practice and ethics. The Tribunal is very concerned that if Dr. Rizk were permitted to serve in these roles he would be unable to avoid influencing any other pharmacy staff to act unprofessionally. He is therefore not a suitable candidate to serve as a licensee, proprietor or owner if he returns to practice, or as a proprietor or owner if he does not.

Regarding costs there was no evidence of Dr. Rizk's financial position or how it has been affected, and no evidence that an order to pay the full costs of the investigation and hearing

would pose a financial hardship for him. The Hearing Tribunal nevertheless considered that the College's costs to date were nearly \$250,000, and this would be onerous for most people.

The Hearing Tribunal has the authority under section 82(1)(j) of the HPA to direct that Dr. Rizk pay all or part of the investigation and hearing costs for the four matters that were the subject of the hearing. The Tribunal found all of the allegations in the four notices of hearing to be proven based on the evidence before it. None of the allegations were improperly advanced and none of them were dismissed. The Tribunal also considered that the hearing was conducted as efficiently as reasonably possible over four days. The Tribunal was provided with investigation records and expert opinions and witnesses were called to speak to the documentation under oath. None of the witnesses were unnecessary for the determination of the allegations and no unnecessary hearing time was used. It was not possible to streamline the hearing with agreed facts or exhibits because Dr. Rizk elected not to participate in the hearing.

Dr. Rizk was solely responsible for his proven unprofessional conduct. He chose not to adapt his practice after his prior discipline findings and sanctions. He continued in the same pattern and this led to several new complaints. The investigations of these complaints were complex, at least in part because Dr. Rizk falsely represented to the College's investigator that he had been appropriately corresponding with his patients' physicians. The investigations and the hearing were also complex due to the technical nature of the subject-matter and the need for expert witnesses to explain and address Dr. Rizk's conduct for each of the patients who were the subjects of the complaints. Dr. Rizk's treatment of these patients is discussed in detail in the Hearing Tribunal's lengthy merits decision.

In some cases, it is appropriate for the College and its members to bear some of the costs of the discipline process. The Hearing Tribunal does not consider this to be such a case. While the total investigation and hearing costs are substantial and would likely be onerous for Dr. Rizk, there is no justification for Dr. Rizk to bear less than the full investigation and hearing costs here. The proposed period of 24 months from the date of this written decision to pay them on a schedule acceptable to the Hearings Director is also appropriate.

Dr. Rizk exhibited a dangerous pattern of unprofessional conduct. He initiated many prescriptions that were not indicated by Health Canada and he assumed the complete care of patients with multiple chronic conditions, all the while failing to collaborate with their primary health care providers about his treatment plans or goals, then lied about communicating with them. Dr. Rizk diagnosed and initiated drug therapy for other medical conditions with inappropriate care plans, improper assessments, and incorrect monitoring for the conditions and medications that he initiated. He was a maverick whose only goal was to prescribe drugs, and in many cases, he prescribed cascades of drugs while lacking the clinical skills to manage the therapies or the unwanted effects caused by the cocktail of medicines he prescribed. His actions represented serious lapses in clinical judgement and are not representative of the expectations of a practicing clinical pharmacist and called into question the Alberta College of Pharmacy's additional prescribing authority. Quite simply he abused this authority. Further he demonstrated no

accountability for his inappropriate behaviour with colleagues in the pharmacy profession, medical profession, or the Alberta College of Pharmacy. In fact, he blatantly disregarded the value of any other health care professionals on the patients' health care team. Lastly, his attitudes and behaviour made him ungovernable by the profession, he was impervious to any type of feedback or disagreement with his treatment plans, he lied to investigators, and he chose not to participate in the proceedings. Governability is critically essential to self-regulation of the profession.

Dr. Rizk is a danger to the public, a discredit to the profession of pharmacy, and has shown that he is incapable of reforming his ways. There is no room in the profession of pharmacy for individuals who conduct themselves in this manner. The proven allegations are alarming, frightening, and serious and must be managed accordingly. The profession of pharmacy prides itself on self-governance, adherence to standards and ethics, and providing excellence in care. One cannot completely disregard these principles and expect to be a clinical pharmacist in the profession of pharmacy; it simply cannot be tolerated.

Signed on behalf of the hearing tribunal by its Chair.



Brad Willsey

Dated: February 19, 2021