

ALBERTA COLLEGE OF PHARMACISTS

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF
A PHARMACIST REGISTRANT
(Nov 16, 2009)

DECISION OF THE HEARING TRIBUNAL

I. INTRODUCTION

The Hearing Tribunal held a hearing into the conduct of a pharmacist registrant. In attendance on behalf of the Hearing Tribunal were Deb Santos, chairperson, Brad Willsey, pharmacist, Kim Fitzgerald, pharmacist, Carolyn Hutniak, public member.

The hearing took place on November 16, 2009 at The Alberta College of Pharmacists #1200, 10303 Jasper Avenue, Edmonton, Alberta. The hearing was held under the terms of part 4 of the Health Professions Act. R.S.A. 2000, C.H-7.

In attendance at the hearing were James Krempien, Complaints Director for the Alberta College of Pharmacists, Mr. David Jardine, Legal Counsel representing the Alberta College of Pharmacists, the pharmacist registrant, and Mr. Sam Attia, Legal Counsel for the pharmacist registrant.

II. ALLEGATIONS

The Hearing Tribunal was appointed to conduct a hearing to inquire into the following complaints or matters:

That while working as a relief pharmacist during the dates December 23 to 29, 2008 at a northern Alberta pharmacy, you:

1. Stole front store items from the pharmacy by removing items from the store without paying for them prior to the end of your shifts on the evenings of December 25, 26 and 27, 2008 by selecting the items, taking the items to the dispensary, removing the applicable security tags, placing these items in an eco bag, and leaving the store with the full eco bag under the cover of your white dispensing jacket and departing the front of the store through a till not open and operated by a cashier.

2. Left the pharmacy for approximately 24 minutes on December 27, 2008 and:
 - i. Undertook only superficial means to secure drugs in the dispensary from unauthorized access when you asked a cashier to “hold the place;”
 - ii. Did not provide any instructions to the cashier to ensure that no restricted activities took place during your absence, or how the pharmacy (and the drugs in the pharmacy), were to be secured during your absence;
 - iii. Did not provide, or ensure, a means for the remaining staff to contact you during your absence;
 - iv. Did not ensure that you were accessible in person or by phone, or that he could return to the pharmacy immediately, and

that during your absence, the pharmacy was open to the public and the dispensary, on at least two occasions, was left unsecured with customers walking around immediately outside the dispensary.
3. During the 7 days you were employed by the northern Alberta pharmacy you:
 - i. Made at least four medication errors (Liptor, Valtrex, Jennifer Arlint/antibiotics, Wellbutrin/Strang);
 - ii. Made at least two additional medication errors (kectorlac/Pritchard) and olanzapine/Braatz); and
 - iii. Did not comply with the Standards of Practice pertaining to quality assurance processes in that in respect to the two medication errors that you were aware of while you were at the pharmacy, you did not

fill out medication error reports or provide information about the errors to other pharmacy staff members.

Copies of each of these prescriptions have been provided to you and reviewed with you.

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

- Section 17 of the *Pharmacy and Drug Regulation*;
- Sections 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii), and 1(1)(pp)(xii) of the *Health Professions Act*;
- Section 1 and Subsections 1.1, 1.2, 1.15 of the Standards for Pharmacist Practice;
- Section 6 and Subsection 6.14 of the Standards for Pharmacist Practice;
- Principle VI of the *Code of Ethics Bylaw*.

and that your conduct set out above and the breach of some or all of these provisions constitutes unprofessional 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*.

The Hearing Tribunal received admission by the pharmacist registrant of allegations number (1), (2) and (3) in an Agreed Statement of Facts. The Hearing Tribunal also received admission by the pharmacist registrant of unprofessional conduct pursuant to Section 70 of the *Health Professions Act*, to allegation number (1) in Exhibit 3 - Admission of Unprofessional Conduct Document.

III. **PRELIMINARY MATTERS**

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

IV. **EVIDENCE**

The evidence presented through documents was:

1. An Agreed Statement of Facts that is attached to the decision (Appendix 1)
2. An Admission of Unprofessional Conduct Document that was dated and signed on November 16, 2009 by the pharmacist registrant. This evidence reads as follows:

This admission of unprofessional conduct is made pursuant to Section 70 of the *Health Professions Act*.

I, the pharmacist registrant, hereby admit that I have engaged in unprofessional conduct in the following manner:

- a) While working as a relief pharmacist during the dates December 23, to 29, 2008, at a northern Alberta pharmacy, I removed front store items of a value of less than \$1000.00 from the pharmacy without paying for the items by selecting the items, taking the items to the dispensary, removing or disarming the applicable security tags, placing these items in an eco bag and leaving the store with the eco bag prior to the end of my shifts on December 25, 26, and 27th through a till not open and operated by a cashier.
- b) The items removed were personal use items and the total value of these items was less than \$1000.00

I understand that if this admission is accepted by the Hearing Tribunal the Hearing Tribunal may determine that this conduct is unprofessional conduct and may proceed to make orders under Section 82(1) of the *Health Professions Act*.

Dated at the city of Edmonton, in the Province of Alberta, this 16th day of November 2009.

Witness A statement

Evidence was also presented through Witness A and is summarized as:

- Witness A is the complainant. She is the pharmacy manager at the northern Alberta pharmacy.
- There is a security system within the store and videotape was provided to the Alberta College of Pharmacists Complaints Director, Jim Krempien.
- Witness A had no objection to the admission by the pharmacist registrant that the items removed from the pharmacy were for his personal use and the total value of these items was less than \$1000.00
- Witness A contacted the pharmacist registrant's then employer, which was RDI Consulting Inc., who provided relief pharmacy, and the amount charged by RDI was reduced by a sum of \$1500.00 to the pharmacy.
- States the pharmacist registrant did not provide his cell phone number to Witness A.
- States the staff at the northern Alberta pharmacy did not have the pharmacist registrant's contact information.
- States she did address her concerns over the phone with the pharmacist registrant about leaving the pharmacy and showing up for shifts on time. This discussion was repeated on December 23rd and the pharmacist registrant reassured Witness A that he would not leave the pharmacy unattended
- Witness A states she did make the pharmacist registrant aware that he would be working alone and he was not to leave the store. If he needed something to eat he could eat in the pharmacy.

Pharmacist registrant:

Evidence was also presented through the pharmacist registrant as follows:

- The pharmacist registrant practiced as a pharmacist for 7.5 years in Canada.
- The pharmacist registrant has worked with a pharmacy chain as a relief pharmacist for a period of one year in 2008.
- Regarding the medication errors, the pharmacist registrant said he knows the law and its requirements and cannot explain his behavior.
- Regarding leaving the pharmacy, it was a long shift of 16 hrs from 8am to 12am.
- The pharmacist registrant had not had anything to eat and he was hungry.
- The pharmacist registrant thought he would be gone only a short time and advised the front area employee that he would be back in 5 minutes and that no one was allowed in the dispensary area.
- When the pharmacist registrant left the store, the front area employee proceeded to the pharmacy area as he had expected she would.
- When the pharmacist registrant left the pharmacy he did have his cell phone with him and turned on.
- When the pharmacist registrant returned to the pharmacy there was no indication that anyone had been in the dispensary area although there were customers waiting for him.

V. **SUBMISSIONS**

Counsel for the Alberta College of Pharmacists and Counsel for the pharmacist registrant submitted that it be appropriate that there be a finding of unprofessional conduct for allegation number (1) of the Notice of Hearing based on the evidence and Admissions in the Agreed Statement of Facts and Admission of Unprofessional Conduct Document.

Given that the member admitted the allegations number (1), (2) and (3) in the Notice of Hearing, and given that the member admitted unprofessional conduct for allegation number (1) in the Notice of Hearing, the balance of submissions were focused on whether the pharmacist registrant's conduct in allegation number (2) and (3) constitutes unprofessional conduct.

A summary of the submissions by Counsel for the Alberta College of Pharmacists as to why the College feels the breaches are significant enough to warrant a finding of unprofessional conduct are as follows:

Absence from the Pharmacy

There had been admission that the pharmacist registrant left the pharmacy for approximately 24 minutes.

The timing was fairly precise because there was a videotape and security system within the store. It is agreed there were no steps taken to secure the dispensary or drugs in the dispensary, no instructions to ensure that no restricted activities took place and no provision of a means for the remaining staff to contact the pharmacist registrant during his absence as he did not ensure that he was accessible in person or by phone or that he could return to the pharmacy immediately.

Section 17 of the Pharmacy and Drug Regulation which is cited in the Notice of Hearing is clear that it must be a very short temporary absence from the pharmacy if (a) the pharmacist who is temporarily absent is accessible in person or by phone and can return to the pharmacy immediately. The admission is that that was not met since the pharmacist registrant was not accessible by phone. Secondly there must be an assurance that no restricted activities are performed (since there were no other individuals in the dispensary, (b) does not apply). Thirdly all drugs are secure from unauthorized access and it was admitted by the pharmacist registrant that there were no steps taken to secure the drugs.

Standards for Pharmacist Practice, Section 1(A pharmacist's duty to act professionally) and Subsection 1.1, and 1.2 that require compliance with the

law, including compliance with both the letter and the spirit of the law. The law includes the Code of Ethics; the *Health Professions Act*, the *Pharmacy and Drug Act* and in each case the regulations and standards.

Medication Errors

Submissions on this point from the Alberta College of Pharmacists perspective; there are two aspects that are important. It was not simply a question that errors occurred, although the number of errors within a relatively short period of time is a concern, it is the fact that the errors that were detected were not dealt with in terms of recording them, dealing with the quality assurance process.

The pharmacist registrant admits he did not comply with the standards of practice pertaining to quality assurance processes in that in respect to the two medication errors the pharmacist registrant was aware of while at the pharmacy, he did not fill out medication error reports or provide information about the errors to other pharmacy staff members.

It is the College's submission that the deliberate failure to comply with the Standards for Pharmacist Practice, Section 1, Subsection 1.15, (participation in quality assurance process) harms the integrity of the profession. There is a specific duty to comply with the Quality Assurance Program.

Standard for Pharmacist Practice, Section 6 and Subsection 6.14 defines the need to ensure that a prescription is filled correctly and the pharmacist's duty when dispensing a drug and completing the final check. The College submits that the number of errors in a relatively short period is a concern but the greater concern is the aspect of patient counseling that might have picked up the error. The College suggests that there was a failure by the member to be compliant with these standards.

The pharmacist registrant found two errors he made but admits that he did not complete medication error reports. From the College's perspective, this is a concern since this is contrary to any kind of quality assurance program. These are standards issues since you can't learn or deal with mistakes if staff don't know about them and if they aren't recorded.

Summary

It is the College's position that factually there is no dispute. The factual aspects of the allegations are admitted, the errors that occurred, the lack of counseling, and the lack of compliance with the standards of practice, and the absence from the pharmacy that breaches Section 17. The admission on removing items from the employer without paying for them is a clear breach of the Code

of Ethics. From the College's perspective there is evidence that would warrant findings on each of these matters.

It is the College's perspective that it is not that somebody makes an error or is absent from the pharmacy for a moment, it is the other elements, where there were choices that were made, or choices that could have been made to comply with the standards and regulations and those choices were not made and the compliance did not occur.

A summary of the submissions by Mr. Attia, legal Counsel for the pharmacist registrant are as follows:

- The pharmacist registrant came to Canada eight years ago and is presently employed by a pharmacy chain where he has been working for seven and a half years without any incident.
- Received news on December 22nd, 2008 that his brother had passed away. He was unable to attend to his brother's funeral in Egypt due to financial circumstances and work commitments.
- The pharmacist registrant did not know it but he was suffering from diabetes and was diagnosed with diabetes seven days after his work in Grande Prairie.
- Worked at the northern Alberta pharmacy over Christmas to earn some extra income and look after his family.
- Last had a vacation three or four years prior to this incident
- An investment in a parcel of land was not working out; the pharmacist registrant was facing losing his savings in this piece of land.
- Lost 40kg since this incident, not eating or sleeping.
- No previous criminal record or convictions. The pharmacist registrant does not know why he removed items from the pharmacy without paying, except that he was operating in a daze subsequent to learning of the death of his brother.
- The pharmacist registrant is concerned for his wife's health (epilepsy) and therefore she is unaware of the allegations against him.
- The pharmacist registrant accepts full responsibility for his actions; he wanted to own up to his actions.
- The pharmacist registrant left the pharmacy to get something to eat because he had not had anything to eat that day. He thought he would be absent from the pharmacy for approximately five minutes. He got lost and was away for approximately 20 minutes.
- The pharmacist registrant says he left his cell number with the pharmacy manager and thought it would have been passed onto the employees or noted somewhere in the pharmacy.

- The pharmacist registrant says he did not secure or endeavor to secure the pharmacy better than he did because he wasn't aware of which cabinets had to be locked, if he was to leave the store. This is in reference to the lock and leave aspect for Schedule 3 drugs.
- The pharmacist registrant acknowledges that he is aware of the quality assurance process, with respect to reporting medication errors and he was aware that he was to do that, and simply didn't do it. He did catch the first two prescription errors and rectified them with the actual patient by contacting them directly.
- The pharmacist registrant will be seeking psychiatric help in order to find out what happened in that period of time. He is remorseful and very depressed.

III. FINDINGS

In the Agreed Statement of Facts, the pharmacist registrant has admitted the factual aspects of the allegations in the Notice of Hearing. The pharmacist registrant has admitted allegations number (1), (2) and (3).

The pharmacist registrant has also signed an Admission of Unprofessional Conduct under Section 70 of the *Health Professions Act*, for allegation number (1).

The Hearing Tribunal reviewed the Agreed Statement of Facts along with additional evidence from both parties and after reviewing the referenced statutes, regulations, standards and Code of Ethics governing the practice of pharmacy the Hearing Tribunal has accepted in whole the Agreed Statement of Facts. The Hearing Tribunal has determined the allegations to be well founded.

Allegation (1):

With respect to allegation number (1), the Hearing Tribunal accepts the Admission of Unprofessional Conduct signed by the pharmacist registrant and finds that the facts in relation to allegation number (1) constitute unprofessional conduct. Specifically, for the reasons that follow, we are satisfied that the acts of theft acknowledged by the pharmacist registrant display a lack of judgment in the provision of professional services that is both disgraceful and dishonorable; contravene the Code of Ethics and constitute conduct that harms the integrity of the regulated profession.

The pharmacist registrant did admit:

- a) While working as a relief pharmacist during the dates December 23, to 29, 2008, at a northern Alberta pharmacy, he removed front store items

of a value of less than \$1000.00 from the pharmacy without paying for the items by selecting the items, taking the items to the dispensary, removing or disarming the applicable security tags, placing these items in an eco bag and leaving the store with the eco bag prior to the end of my shifts on December 25, 26, and 27th through a till not open and operated by a cashier.

- b) The items removed were personal use items and the total value of these items was less than \$1000.00

The Hearing Tribunal agrees that thieving items from the store where employed as a relief pharmacist is a breach of trust and professionalism as well as dishonest and criminal. For all those reasons, it is therefore behavior that is harmful to the integrity of the profession and also a clear breach of Principle VI of the Code of Ethics that obliges a pharmacist to act with honesty and integrity.

With respect to allegation number (2) and number (3), the Hearing Tribunal is satisfied that the facts in relation to both of these allegations constitute unprofessional conduct.

Allegation (2):

Specifically for the reasons that follow, we are satisfied that the facts supporting allegation number (2) - display a lack of judgment in the provision of professional services - constitute a contravention of Section 17 of the Pharmacy and Drug Regulations; contravene the Code of Ethics and Standards of Practice and amounts to conduct that harms the integrity of the regulated profession.

- The pharmacist registrant left the pharmacy for approximately 24 minutes on December 27, 2008 and there are very clear rules in Section 17 of the Pharmacy and Drug Regulation surrounding temporary absence of a pharmacist from a pharmacy. The pharmacist must be accessible in person or by phone and can return to the pharmacy immediately. The pharmacist ensures that during the absence no restricted activities are performed, the practice of pharmacy and safety of the public are not compromised and all drugs are secure from unauthorized access.
- The pharmacist registrant admits that he undertook only superficial means to secure drugs in the dispensary from unauthorized access when he had asked a cashier to, "hold the place". (Evidence via videotape from Mr. Krempien indicates The pharmacist registrant's conversation with the cashier was 10 seconds)

- The pharmacist registrant admits he did not provide any instructions to the cashier to ensure no restricted activities took place during his absence except to say that no one should be permitted into the dispensary.
- The pharmacist registrant admits he did not provide or ensure a means for the remaining staff to contact him during his absence and he therefore did not ensure he was accessible in person or by phone or that he could return to the pharmacy immediately. (The pharmacist registrant did have a cell phone with him when he left the pharmacy and it was turned on but his cell phone number was not communicated to the staff.)
- During the pharmacist registrant's absence, the pharmacy was open to the public and the dispensary, on at least two occasions was left unsecured with customers walking around immediately outside the dispensary.
- Evidence shows the pharmacy manager did speak with the pharmacist registrant because she recognized he would be working long shifts, i.e., 8am-12am (16 hr shifts) on some days and the manager did address her concerns over the phone with the pharmacist registrant about leaving the pharmacy, this discussion was repeated on December 23rd when the pharmacist registrant arrived in the northern Alberta town. The pharmacy manager repeatedly advised the pharmacist registrant that he was not to leave the pharmacy and was to take his meals on the premises. The pharmacist registrant reassured the pharmacy manager that he would not leave the pharmacy unattended.

From the tribunal's perspective there is provision for a pharmacist to be temporarily absent from a pharmacy; however, in this instance, the pharmacist registrant's doing so was contrary to the express direction of the pharmacy manager and the basis upon which he was hired for relief work. It was therefore at best a clear lack of judgment on his part. The pharmacist registrant's choices also clearly breach Section 17 of the Pharmacy and Drug Regulations as outlined above. During his absence, he was not accessible in person or by phone and he failed to take reasonable steps to ensure that the drugs were secure from unauthorized access and that restricted activities would not be performed. As well Principle VI of the Code of Ethics by-law that states a pharmacist acts with honesty and integrity and Subsection (2) requires that pharmacists obey the laws, regulations, by-laws and standards that affect the practice of pharmacy, not only in letter but also in spirit. In this case, the pharmacist registrant's absence from the dispensary contravened Standards for Pharmacists Practice, Section 1, Subsection 1.1 and 1.2 also in that his departure was inconsistent with the Pharmacy and Drug Regulations as described above.

Allegation (3):

For the reasons that follow, the Hearing Tribunal is satisfied that the facts supporting allegation (3): display a lack of judgment in the provision of professional services; constitute a contravention of the Standards of Practice; and amount to conduct that harms the integrity of the regulated profession:

The pharmacist registrant admits that during the period from December 23 to December 29, 2008 while he was the pharmacist at a northern Alberta pharmacy he:

- i. made four medication errors, two of which he was aware of during the period from December 23 to December 29, 2008;
- ii. probably made at least two additional medication errors of a record keeping or billing nature; and
- iii. did not comply with the Standards of Practice pertaining to quality assurance processes in that in respect to the two medication errors that he was aware of while he was at the pharmacy, he did not fill out medication error reports or provide information about the errors to the pharmacy staff members.

The Hearing Tribunal recognizes that an error can happen, but the decision not to record or note the error notwithstanding awareness of it, is a clear error of judgment. Moreover, it is a clear contravention of the Standards of Practice Section 1.15. That section states that a pharmacist must participate in any quality assurance process applicable to the pharmacist's practice such as the quality assurance process required in the Standard for Operating Licensed Pharmacies. The pharmacist registrant gave evidence that he understood that the quality assurance processes in place required him to document the errors and provide follow-up for the staff members at the pharmacy and he could offer no explanation for his failure to comply. Finally, the pharmacist registrant's failure to complete medication error reports and to provide information about the errors to the pharmacy staff members, creates uncertainty, potentially compromises communication with patients and patient safety, undermines patient confidence and ultimately harms the integrity of the profession.

IV. ORDERS

Counsel for the Alberta College of Pharmacists and counsel for the pharmacist registrant submitted a joint submission on penalty as follows:

Based upon the admissions of unprofessional conduct made by the pharmacist registrant in respect to the matters of complaint set out in the Notice of Hearing dated August 26, 2009, the parties jointly request that the Hearing Tribunal

make the following orders in relation to the pharmacist registrant's unprofessional conduct:

- a. a suspension of the pharmacist registrant's practice permit for a period of 30 days commencing on the date the written decision of the Hearing Tribunal is served on the pharmacist registrant;
- b. a suspension of the pharmacist registrant's practice permit for a further 90 days that will be stayed under Section 82 (2) of the *Health Professions Act* provided the pharmacist registrant meets the following conditions:
 - i. no further incidents of unprofessional conduct arise for a period of two years from the date the written decision of the Hearing Tribunal is served on the pharmacist registrant;
 - ii. the pharmacist registrant undertakes and passes the Jurisprudence Examination of the Alberta College Pharmacists within six months from the date the written decision of the Hearing Tribunal is served on the pharmacist registrant;
 - iii. the pharmacist registrant does not act as the licensee or proprietor of a pharmacy for a period of two years from the date the written decision of the Hearing Tribunal is served on the pharmacist registrant;
- c. a fine of \$2500.00 to be paid within a time set by the Hearing Tribunal;
- d. an order that the pharmacist registrant pay all of the expenses of, costs of and fees related to the investigation and hearing within a time set by the Hearing Tribunal;
- e. an order that a summary of this decision be published in the *acpnews*.

Counsel for the Alberta College of Pharmacists and Counsel for the pharmacist registrant did not agree upon whether publication of the summary of the decision should include the pharmacist registrant's name.

On the publication, Counsel for the Alberta College of Pharmacists submitted:

- Publication should be on a named basis.
- This is the general position taken unless there are exceptional circumstances shown.
- Publication of name is a significant deterrent in terms of unprofessional conduct due to the fact that your peers are being advised of your conduct.
- Publication of name is important to the transparency of the process; there is not an attempt to protect the members.

- Removal of the items from the store is a significant matter and the College's position is that the member on a named basis should assume responsibility.

On the publication of name, counsel for the pharmacist registrant submitted:

- Counsel feels that publication of the pharmacist registrant's name is not necessary for specific deterrence given the fact that the pharmacist registrant is going to incur in excess of \$20,000.00 in costs, will lose his license for a month, may possibly lose his job and therefore his medical coverage which will incur further expenses for his wife's medication and his own medication.
- The pharmacist registrant has no criminal justice involvement and he's not been the subject of any previous complaints to the College.
- Publication of the decision setting out the consequences of theft is enough of a general deterrence to the membership. The name of the client adds nothing to the general deterrence to the membership.
- The pharmacist registrant's name should be excluded from publication because should his wife find out about it, it may well trigger her epilepsy. He also has a daughter who hopes to be a pharmacist and is already in university and she could graduate with a tainted name.
- These actions were out of character and something that the pharmacist registrant will not likely ever do again. The pharmacist registrant wishes to undertake some psychiatric or professional help to see what triggered his actions.
- Counsel for the pharmacist registrant asks the Tribunal to take into consideration some of the ethnic aspects. The pharmacist registrant is a member of a small Egyptian community; there are a number of pharmacists and doctors and other healthcare professionals who have access to this publication. The pharmacist registrant and his family may be shunned by the community and even those with whom he has had long relationships with. The general deterrence is not served by publishing the pharmacist registrant's name.
- The pharmacist registrant's brother had just passed away unexpectedly and the pharmacist registrant was just trying to get through the week so he could grieve for his brother.
- The pharmacist registrant has a lot on his mind because of this trial and his actions; he had to be taken to the hospital because he fainted at work.
- The pharmacist registrant cooperated and has admitted what he has done. The only thing he asks is that his name be kept out of the newsletter for his wife and daughter's sake, for his daughters reputation.

The Hearing Tribunal recognizes that protection of the public is an essential consideration for a self-regulated profession. The complaint process must be

clear and show the profession's ability to supervise the conduct of members. This is essential to maintaining public confidence in the integrity of the profession. The process must also be fair to the member.

The Hearing Tribunal therefore considered what orders were necessary to protect the public, maintain confidence in the integrity of the profession and provide fairness to the investigated member.

The Hearing Tribunal is in agreement with the terms of joint submission on penalty that both Counsel for the Alberta College of Pharmacists and Counsel for the pharmacist registrant agreed to. We are satisfied that the penalty agreed to is necessary to protect the public, maintain confidence in the integrity of the profession and provides fairness to the investigated member having regard to the following factors:

- The issue of removal of items without paying and the breach of trust is a serious allegation. However, the other practice errors, while they constitute unprofessional conduct, are not on the extreme end of the spectrum of unprofessional conduct.
- The pharmacist registrant was a pharmacist with experience. He has worked in Canada as a pharmacist for seven-and-a-half years and had been working as a relief pharmacist for one year. The pharmacist registrant had no prior findings and there have been no complaints regarding his practice.
- While there are a number of allegations against the pharmacist registrant, they all relate to a fairly short period from December 23 to 29, 2008 while the pharmacist registrant was acting as a relief pharmacist. His behavior may have been influenced by news of the sudden passing of his brother just before this incident.
- The pharmacist registrant has acknowledged his wrongdoing. He has cooperated with an Agreed Statement of Facts and Admission of Unprofessional Conduct to Allegation (1)
- The pharmacist registrant has expressed remorse for what he has done and has expressed a desire to undertake psychiatric or professional help to see what triggered his behavior.
- The pharmacist registrant has suffered financially, suffered emotionally and physically (he has lost 40kg).

Regarding the publication of the pharmacist registrant's name, we are satisfied that in these circumstances, publication of the member's name will not serve to materially advance the objectives of public safety or maintaining public confidence and that those objectives are adequately served by the penalty agreed. Moreover, we are satisfied that publication of the pharmacist registrant's name may have unwarranted impact on his wife and daughter.

The Hearing Tribunal makes the following orders in relation to the pharmacist registrant's unprofessional conduct:

- a. a suspension of the pharmacist registrant's practice permit for a period of 30 days commencing on the date the written decision of the Hearing Tribunal is served on the pharmacist registrant;
- b. a suspension of the pharmacist registrant's practice permit for a further 90 days that will be stayed under Section 82 (2) of the *Health Professions Act* provided the pharmacist registrant meets the following conditions:
 - i. No further incidents of unprofessional conduct arise for a period of two years from the date the written decision of the Hearing Tribunal is served on the pharmacist registrant;
 - ii. The pharmacist registrant undertakes and passes the Jurisprudence Examination of the Alberta College Pharmacists within six months from the date the written decision of the Hearing Tribunal is served on the pharmacist registrant;
 - iii. The pharmacist registrant does not act as the licensee or proprietor of a pharmacy for a period of two years from the date the written decision of the Hearing Tribunal is served on the pharmacist registrant;
- c. a fine of \$2500.00 to be paid within six months from the date the written decision of the Hearing Tribunal is served on the pharmacist registrant;
- d. an order that the pharmacist registrant pay all of the expenses of, costs of and fees related to the investigation and hearing within two years from the date the written decision of the Hearing Tribunal is served on the pharmacist registrant; and
- e. an order that a summary of this decision be published in the *acpnews*, and the publication will exclude the pharmacist registrant's name.

Respectfully submitted March 23, 2010 on behalf of the Hearing Tribunal