

ALBERTA COLLEGE OF PHARMACISTS

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF

Saeed Sattari

DECISION OF THE HEARING TRIBUNAL

August 22, 2012

I. INTRODUCTION

The Hearing Tribunal held a hearing into the conduct of Saeed Sattari. In attendance on behalf of the Hearing Tribunal were: Nancy Brook, public member, Peter Fenrich, pharmacist, Anita Warnick, pharmacist and Peter Macek, pharmacist and chair.

The hearing took place on June 6, 2012 at the Alberta College of Pharmacists, 1100-8215 – 112 Street, Edmonton, AB. The hearing was held under the terms of Part 4 of the *Health Professions Act*.

In attendance at the hearing were: Mr. James Krempien, Complaints Director and Mr. David Jardine, legal counsel representing the complaints director, and the member, Mr. Saeed Sattari. Mr. Sattari chose to represent himself during the hearing. Mr. Gregory Sim was also in attendance, acting as independent counsel for the Hearing Tribunal.

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

II. ALLEGATIONS

The Hearing Tribunal held a hearing to inquire into the following complaints or matters:

IT IS ALLEGED THAT during the period from July 1, 2010 to on or about May 9, 2011, the member:

1. Breached his professional declaration of May 28, 2010 that he would maintain valid professional liability insurance while on the clinical register when in fact he did not obtain the required professional liability insurance;
2. Was on the clinical register from July 1, 2010 to on or about May 9, 2011 without valid professional liability insurance;
3. Practised as a pharmacist without valid professional liability insurance during the period of July 1, 2010 to October 12, 2010;
4. Breached his regulatory obligation to the Alberta College of Pharmacists by failing to maintain the required professional liability insurance; and
5. Breached his ethical obligation to his patients and the public by failing to maintain the required professional liability insurance.

III. PRELIMINARY MATTERS

This hearing was originally scheduled to proceed on October 6, 2011 and was postponed at Mr. Sattari's request due to his being out of the country. The request for adjournment and undertaking to the College was entered as Exhibit 2.

IV. EVIDENCE

The complaints director for the College, Mr. James Krempien, testified. Mr. Krempien provided the following key evidence:

- He reviewed the *Request for Adjournment and Undertaking* document (Exhibit 2).
- He acknowledged that Mr. Sattari was very cooperative with the College and complied with all aspects of the undertaking document.
- He discussed the *Record of Decision* (Exhibit 3) which outlined his reasons to refer this matter to a Hearing Tribunal.

Mr. Krempien then took the Hearing Tribunal through Exhibit 4, *Documents from the Complaint File of the Alberta College of Pharmacists*. Tab 1 of Exhibit 4 is a copy of the initial complaint from Roberta Stasyk, the competence director at the College. Mr. Krempien explained that:

- A random audit of professional declarations revealed that Mr. Sattari did not hold malpractice insurance from July 1, 2010 to approximately May 10, 2011;
- There are documents faxed to the College by Mr. Sattari that indicate that he did not hold malpractice insurance until May 9, 2011;
- In an email, Mr. Sattari explained to the College that he unintentionally forgot to check the box on his renewal form (for malpractice insurance) to The Alberta Pharmacists' Association (RxA) and only ended up paying for membership;
- There are several providers of malpractice insurance in Alberta, so it would not be unreasonable for a pharmacist to be a member of RxA and obtain malpractice insurance elsewhere; and
- In the letter to Mr. Sattari from the competence director, a copy of the professional declaration he signed at renewal was enclosed, which states that he declared carrying at least 2 million dollars of valid professional liability insurance.

Tab 5, Exhibit 4, is a copy of a letter to Mr. Sattari from the complaints director dated June 21, 2011, informing him of the complaint and requesting further information.

Tab 7, Exhibit 4, is Mr. Sattari's June 28, 2011 response to the complaints director's information request. Mr. Krempien explained that:

- In his letter, Mr. Sattari admitted and acknowledged that the three concerns raised in the notice of complaint letter (Tab 5, Exhibit 4) were true and he went on to explain that his lack of liability insurance was unintentional;
- Mr. Sattari indicated he was working as a pharmacist on Saturdays and Sundays at Kensington IDA pharmacy from July 1, 2010 to September 24, 2010;
- Mr. Sattari indicated he departed Canada on September 27, 2010 and returned on April 6, 2011;
- Mr. Sattari indicated that on May 9, 2011, he realized that he did not have professional liability insurance and subsequently obtained this insurance for the period of May 9, 2011 through June 30, 2011; and
- Professional liability insurance is mandatory while a pharmacist is on the clinical register. Mr. Sattari was on the clinical register without professional liability insurance for the period of July 1, 2010 through May 9, 2011.

Tab 9, Exhibit 4 is a summary of a meeting that took place between Mr. Krempien and Mr. Sattari on July 4, 2011. Mr. Krempien explained:

- Mr. Sattari acknowledged that he was on the clinical register and was practising without professional liability insurance from July 1, 2010 through May 9, 2011.
- Mr. Sattari was grateful that the College's audit informed him that he was practising without insurance and he promptly renewed his policy for the remainder of the registration year and the year following.
- During the meeting, Mr. Sattari discussed his error in not checking off the box on the renewal form for the malpractice insurance.
- Mr. Sattari also mentioned that he was not aware of any errors or omissions during the period of July 1, 2010 to September 24, 2010 that may lead to a statement of claim by a patient.
- Mr. Krempien mentioned that at no time did Mr. Sattari appear to have been fooling the ACP or hiding anything throughout his investigation.
- During this meeting, Mr. Krempien informed Mr. Sattari that this matter would most likely be resolved through referral to a hearing.
- Mr. Sattari mentioned to him that he would be out of the country until October and he complied with Mr. Krempien's request to keep the College informed with his contact information.
- Mr. Krempien testified that the College was not aware of any complaints or civil matters regarding Mr. Sattari's conduct to date.

Tab 10, Exhibit 4 are sample renewal documents similar to those that Mr. Sattari would have received during his registration renewal in May 2010. Mr. Krempien reviewed these as part of his investigation. He pointed out some areas of the renewal package that pertain to professional liability insurance:

- It states on the renewal letter (first page second paragraph) for pharmacists on the clinical register, "...it is a condition of this practice permit that the

required professional liability insurance is maintained at all times while on that register.”

- Page 2, Tab 10, Exhibit 4 are registration reminders from the ACP website accessible by all pharmacists and the second point states, “The pharmacist practice permit renewal fee does not include professional liability insurance. Professional liability insurance is a personal responsibility of each pharmacist and is available through a variety of sources.”
- Page 3 is the ACP record of Mr. Sattari’s renewal, and indicates that the renewal was done online on May 28, 2010 at approximately 10 p.m.
- Page 4 is a copy of the pop-up window that Mr. Sattari would have seen prior to submitting his renewal online. The text reads, “ATTENTION You are about to make professional declarations regarding your continuing education and insurance coverage. Should it be determined that the information you are declaring is not true or is inaccurate, it may be grounds for referral to the Complaints Director for further investigation...”.

Tab 11, Exhibit 4 are excerpts from the College newsletters *acpnews* and *Heads Up!* with sections pertaining to professional liability insurance. Mr. Krempien explained:

- In the Spring 2010 edition of *acpnews*, there is specific reference to professional liability insurance and the requirement to maintain this insurance while on the clinical register even if the pharmacist is not working and/or not living in Alberta.
- Professional liability insurance is also referenced in articles from the Spring 2009 *acpnews*, the July/August 2008 *acpnews*, the May/June 2008 *acpnews* and the July/August *Headsup!* addendum to the *acpnews*.

Mr. Krempien discussed the rationale behind professional liability insurance and professional declarations.

- Mr. Krempien spoke to liability insurance as being a key way that the public is being protected in the event of any damages suffered as the result of an error. This legislated coverage was key in granting pharmacists expanded practice privileges.
- The College utilizes professional declarations to help best manage the renewals of over 4000 pharmacists, 1000 pharmacies and over 1200 technicians. An audit process is used to ensure compliance.

Mr. Krempien spoke to his reasons for bringing this matter to a hearing tribunal.

- Mr. Sattari’s conduct was inadvertent, but he has been practising for some time and was aware of the need for professional liability insurance.
- This was not the first time Mr. Sattari renewed his practice permit - he had done the same process before and knew about the requirement for maintaining professional liability insurance.
- The College has an obligation to protect the public. Professional liability insurance allows recourse if a member causes harm to an Albertan.

- Mr. Sattari had an obligation to the College, to his patients and to the public during the shifts he worked without malpractice insurance.
- Mr. Sattari received numerous reminders about the need to maintain insurance while on the clinical register and the need to make honest professional declarations.

Mr. Krempien responded to a question from the Hearing Tribunal with respect to dates in the third allegation in the notice of hearing. He clarified that the October 12, 2010 date was the day the ACP was notified that Mr. Sattari was no longer employed at Kensington IDA. Mr. Krempien confirmed that Mr. Sattari's last day of employment was September 24, 2010.

The complaints director called no further witnesses.

Mr. Sattari was sworn in and provided evidence to the Hearings Tribunal.

His first exhibit was a letter he drafted to the Hearings Tribunal (Exhibit 5). This letter provided same background information including:

- Mr. Sattari was awarded a Pharm D in 1981 and has been practicing as a pharmacist in Alberta since July 2000.
- He accepts and takes responsibility for all allegations made by the ACP in this matter.
- Mr. Sattari explained that his lack of professional liability insurance was an error and explained how it occurred.
- The time it took for him to address the audit was due to him being out of the country from September 27, 2010 until April 6, 2011.
- He stressed in this letter and during testimony that this error was unintentional and he knew that professional liability insurance was a College requirement.
- Mr. Sattari recognized the need to protect the public and has held valid malpractice insurance in all other circumstances while on the clinical register.
- Mr. Sattari stressed to the Hearing Tribunal that he would like to have this matter resolved.

Mr. Sattari also presented some copies of past and present professional liability insurance coverage and this was marked as Exhibit 6.

- The first sheet in Exhibit 6 was a pro-rated receipt for malpractice insurance dated May 9, 2011.
- This exhibit also contained proof of insurance for July 1, 2009-July 1, 2010, July 1, 2008-June 30, 2009 and April 13, 2012-July 1, 2012.
- Mr. Sattari also attached a manual application (the last page of Exhibit 6) form for the upcoming renewal year (2012-2013) to show that he wouldn't miss the check box on the form for the malpractice insurance.
- Mr. Sattari confirmed he was on the associate register from July 2011 through April 5, 2012 and thus did not require professional liability insurance.

Mr. Sattari indicated he appreciated that he was not suspended from practice by the College during this process.

The Hearing Tribunal asked Mr. Sattari a few clarification questions regarding the insurance policy's retroactivity clause.

The retroactive date of July 1, 2003 was noticed on Mr. Sattari's current professional liability insurance and the Tribunal asked if either Mr. Sattari or the complaints director knew what this meant. Neither party had a clear answer, but Mr. Jardine brought forward the following points:

- The insurance renewal premiums were pro-rated, which suggests that he had less than a full policy year.
- Even if the policy would retroactively cover Mr. Sattari, he did practice for a period of time without valid insurance, which is the issue.
- The retroactive date referred to in Exhibit 6 was considered and discussed but the evidence demonstrated that there was a period of no coverage and both parties acknowledged there was a lack of coverage for some period.
- The complaints director spoke to claims-based versus occurrence-based insurance and the differences between each type of coverage. One type of policy covers claims against the member during that year, regardless of when the event occurred, the other covers claims occurring in that policy year.
- Ultimately there is no evidence of coverage during the period in question.

Mr. Sattari was asked to clarify the timeline during the 2010-2011 registration year to the Hearings Tribunal. Mr. Sattari confirmed that:

- He was on the clinical register for the entire registration year (July 1, 2010 to June 30, 2011),
- He practiced on weekends from July 1, 2010 to September 24, 2010,
- He departed Canada on September 27, 2010,
- He returned to Canada in April 2011,
- On May 9, 2011 he received professional liability insurance and began practicing as a pharmacist until the end of June 2011,
- In July 2011 Mr. Sattari switched to the associate register and thus did not require malpractice insurance,
- In July 2011, Mr. Sattari completed the *Request for Adjournment and Undertaking* document (Exhibit 2).

V. SUBMISSIONS

Complaints Director Submissions:

The complaints director submitted the following with respect to the issue of the retroactive date on Mr. Sattari's professional liability insurance policy.

- For the period where Mr. Sattari had no professional liability insurance, any person who made a claim would have been at risk.
- No insurer will back date coverage to deal with a claim made during a period where the member was uninsured; insurance companies cover risks of potential liabilities, not existing liabilities.
- Mr. Sattari admitted to filling out the declaration, and it was not accurate, and to having no professional liability insurance.

Mr. Jardine then submitted that the complaints director must demonstrate that the allegations are factually proven and that Mr. Sattari's behavior constitutes unprofessional conduct. Mr. Jardine argued that the facts for the allegation are proven on a balance of probabilities. He then took the Tribunal through the legislation and standards that apply to this case including:

- The definition of unprofessional conduct in the *Health Professions Act* is not a moral test; a member's conduct can be found unprofessional whether or not it was with dishonourable or disgraceful intent;
- The subsections of Section 1(1)(pp) of the *Health Professions Act* which pertain to this case are (ii) contravention of this Act, a code of ethics or the *Standards of Practice*; (iii) contravention of another enactment that applies to the profession; and (xii) conduct that harms the integrity of the regulated profession;
- Section 40(1)(c) of the *Health Professions Act* and Section 13 of the Pharmacists Profession Regulation, Alta Reg. 129/2006 speak directly to the requirement of holding professional liability insurance;
- The *Standards for Pharmacist Practice*¹, Standard 1 speaks to compliance with the law, including the letter and spirit; and
- The ACP *Code of Ethics*, specifically Principle I – “Hold the well-being of each patient to be my primary consideration”; and Principle X – “Act with honesty and integrity.”

The complaints director submitted that there was no attempt to deceive in this matter or a lack of integrity on behalf of the member, but, the complaints director is asking for a determination that this was an important known fact to pharmacists and was not done, despite Mr. Sattari's declaration that it was done. Mr. Sattari's lack of malpractice insurance was only resolved following an audit done by the ACP.

Mr. Sattari has the responsibility to take the correct steps in obtaining professional liability insurance to ensure the public is protected. The complaints director submitted that Mr. Sattari provided incorrect information to the ACP and that professional liability insurance is an important aspect of protecting the public; pharmacists cannot register without it, nor practice without it.

¹ The Standards for Pharmacist Practice, dated April 1, 2007, were referred to in this matter as they were the standards in place at the time of the breaches.

Mr. Sattari practiced for three months without professional liability insurance and remained on the clinical register for another eight months without insurance and could have been practising if he chose to.

The complaints director submitted that the integrity of the profession is harmed by Mr. Sattari's actions. If a member of the public saw that a pharmacist received a permit to practice by recklessly saying he had insurance, the integrity of the profession is impaired

The requirements of registration were clear, and the complaints director submitted that the registration of members depends on them submitting their declarations properly. The professional declarations of continuing professional development and liability insurance are essential to the protection of the public and members have a duty to certify that these items are true. False declarations undermine the systems that are in place to protect the public.

The complaints director submitted that this matter is serious and should be determined to be unprofessional conduct.

Mr. Sattari's submissions:

Mr. Sattari agreed with the complaints director's submissions and knew that he needed professional liability insurance to practice. He asked the Tribunal to decide the case and how to conclude this matter

VI. FINDINGS

The Hearing Tribunal asked the complaints director to clarify the structure of the allegations (Exhibit 1). Counsel for the complaints director submitted that there was only one allegation of unprofessional conduct with particulars set out as part of that allegation. If any of the five particulars was factually proven and found to constitute unprofessional conduct then the allegation would be proven.

Breach 1

Professional liability insurance professional declaration from May 28, 2010

The Hearing Tribunal finds the alleged facts to be proven for the following reasons:

- Mr. Sattari admitted in an email to College staff that he did not have professional liability insurance (Tab 1, Exhibit 4).
- In Mr. Sattari's response to the complaints director he admitted that he breached his professional declaration of May 28, 2010 in that he did not maintain valid professional liability insurance while on the clinical register (Tab 7, Exhibit 4).
- Mr. Sattari admitted to the Hearing Tribunal during his testimony that he unintentionally breached this declaration.

- Mr. Sattari admits to this in a letter he presented to the Hearings Tribunal (Exhibit 5).

Breach 2

Mr. Sattari was on the clinical register from July 1, 2010 to May 9, 2011 without valid professional liability insurance

The Hearing Tribunal finds the alleged facts to be proven for the following reasons:

- In Mr. Sattari's response to the complaints director, he admitted that he did not have valid professional liability insurance until May 9, 2011 (Tab 7, Exhibit 4).
- During Mr. Sattari's testimony, he admitted to the Hearings Tribunal that he did not have valid professional liability insurance for the period of July 1, 2010 to May 9, 2011.
- The professional liability insurance receipt submitted as part of Exhibit 6 indicating a pro-rated premium for the period of May 9, 2010 to June 30, 2011.
- Mr. Sattari testified that he was on the clinical register from July 1, 2010 through June 30, 2011.
- Mr. Sattari admits to this in a letter he presented to the Hearings Tribunal (Exhibit 5).

Breach 3

Mr. Sattari practised as a pharmacist without valid professional liability insurance from July 1, 2010 to October 12, 2010

The Hearing Tribunal finds the alleged facts to be proven for the following reasons:

- Mr. Sattari's response to the complaints director that he was working as a pharmacist from July 1, 2010 to September 24, 2010 on weekends (Tab 7, Exhibit 4).
- Mr. Sattari admits to this in a letter he presented to the Hearings Tribunal (Exhibit 5).
- During his meeting with the complaints director on July 4, 2011, he admitted to practising without malpractice insurance from July 1, 2010 to September 24, 2010 (Tab 9, Exhibit 4).
- Mr. Krempien's testimony that the College was made aware that Mr. Sattari was no longer working at the Kensington IDA pharmacy on October 12, 2010.

The Hearing Tribunal finds this breach proven for the dates of July 1, 2010 to September 24, 2010.

Breach 4

Mr. Sattari breached his regulatory obligation to the Alberta College of Pharmacists by failing to maintain the required professional liability insurance

Breach 5

Mr. Sattari breached his ethical obligation to his patients and the public by failing to maintain the required professional liability insurance

Although unnecessary to its finding of unprofessional conduct, the Hearing Tribunal found breaches 4 and 5 proven, based on the evidence outlined in the previous points. Mr. Sattari's conduct was a breach of his regulatory obligations such as Section 40(1)(c) of the *Health Professions Act* and Section 13 of the Pharmacists Profession Regulation, and a breach of his ethical obligations such as the ACP *Code of Ethics* Principles I and X.

The Hearing Tribunal finds that the five proven breaches above constitute unprofessional conduct for the following reasons.

The *Health Professions Act* Section 40(1)(c) and the Pharmacists Profession Regulation Section 13 speak directly to regulated members requiring professional liability insurance. The Tribunal recognizes that professional liability insurance is paramount in ensuring the safety of the public. As the scope of pharmacist practice continues to evolve, the public needs to know that pharmacists have such insurance in place to protect their interests.

Pharmacists are a self-regulated profession. As pharmacists, there is a high degree of independence given to each member, and with this independence comes a duty to be responsible, accurate, honest and trustworthy.

The Tribunal recognizes that Mr. Sattari unintentionally did not hold valid insurance, but this error had the potential for serious consequences. All members are expected to be responsible for their actions whether or not harm arises from them. Pharmacists must be accurate and complete when dealing with the provision of pharmaceutical services and this accuracy is expected to ensure excellent health care outcomes for Albertans. This same completeness and accuracy is mandatory for completing the professional declarations during practice permit renewal. The profession must collectively do the same things, including carrying professional liability insurance and providing accurate professional declarations, to ensure the safety of the public.

Mr. Sattari's lack of professional liability insurance created a situation where harm could have come to an Albertan.

The integrity of the profession is harmed when members provide false declarations, regardless of the member's intent. Mr. Sattari should not have been practising without professional liability insurance and would have continued to do so had the College not audited his declarations. The public must know and trust that the pharmacy profession has processes in place for their protection. These processes also serve an important secondary purpose to uphold the integrity of the profession itself. The basis of a self-regulated profession demands that its members are true to their word.

The Hearings Tribunal examined the following statutes, regulations and standards governing the practice of pharmacy in making the determination of unprofessional conduct.

Section 1(1)(pp)(ii), 1(1)(pp)(iii), 1(1)(pp)(xii) and 40(1)(c) of the *Health Professions Act*

Section 1(1)(pp) defines unprofessional conduct, and subsections (ii), (iii) and (xii) speak to specific examples of such, including contravention of the *Health Professions Act*, a code of ethics or *Standards of Practice*, contravention of another enactment that applies to the profession and conduct that harms the integrity of the regulated profession. Mr. Sattari's proven lack of professional liability insurance did in fact contravene Subsections (ii) and (iii). The Tribunal also finds that his conduct harmed the integrity of the pharmacy profession contrary to (xii) by breaching the public trust in the declarations that pharmacists say are true. The public must be assured that each practising pharmacist does what laws require. Holding professional liability insurance is the key way the public is protected and if members are permitted to practice without this mandatory insurance, there is a trust issue from a public standpoint.

Section 1 of the *Health Professions Act*, and Subsections 1.1 and 1.2 of the *Standards for Pharmacist Practice*

Pharmacists must comply with the laws governing the practice of pharmacy. The need for professional liability insurance is clear in the *Health Professions Act* and the Pharmacists Profession Regulation and Mr. Sattari's lack of professional liability insurance for the period of July 1, 2010 to May 9, 2011 was a breach of this standard.

Principles I and X of the ACP *Code of Ethics* Bylaw

Principle I speaks to holding the well-being of each patient as the pharmacist's primary consideration. Mr. Sattari did not act in the best interest of his patients when he did not have valid professional liability insurance. This insurance is an expectation for all regulated members. Principle X is to act with honesty and integrity. Mr. Sattari did not comply with the letter and spirit of the law that governs pharmacy practice when he falsely declared having and maintaining valid professional liability insurance or when he was reckless as to the accuracy of his declaration.

Sections 13(1), 13(2) and 32(a) of the *Pharmacists Profession Regulation*

This regulation discusses the specific type and amount of professional liability insurance required by pharmacists and the need to prove this is in place to the registrar. Mr. Sattari was on the clinical register for nearly nine months without valid liability insurance.

VI. ORDERS

Following a verbal decision that Mr. Sattari's conduct was found to be unprofessional, both the complaints director and Mr. Sattari were invited to make submissions on sanctions.

The complaints director submitted that the purpose of sanctions was threefold: 1) to protect the public, 2) to protect the integrity of the profession both internally and in the eyes of the public; and 3) to be fair to the member.

The complaints director reviewed some similar decisions with the Hearing Tribunal, identifying four cases from Ontario which speak directly to professional liability insurance and three cases from Alberta which involve pharmacists practising without a permit.

The complaints director then took the Hearing Tribunal through the factors referenced in *Jaswal v. Newfoundland (Medical Board)* (1996), 42 Admin. L.R. (2d) 233 and described the application to the factors in this case. Key points were:

- Mr. Sattari has not had any prior complaints or disciplinary actions against him.
- Mr. Sattari was fully cooperative throughout the investigation and hearing process.
- Mr. Sattari suffered no direct consequences from this matter (i.e., was not suspended nor had any loss of employment).
- The need for specific and general deterrence. The complaints director does not believe that Mr. Sattari will repeat this conduct so the need for specific deterrence is minimal; however, the College relies on registered members to take their professional declarations very seriously so there is a need for general deterrence.
- The number of times the offence recurred. The lack of professional liability was a single judgment choice, but the practice continued over a substantial period and would have continued had the College not audited Mr. Sattari.

The complaints director submitted that the following sanctions would be appropriate in this matter:

- a reprimand,
- a fine of \$1,000, and
- the costs of the investigation and hearing.

The complaints director submitted that the fine was on the low end of the scale and was in line with other cases. The fine serves the purpose of general deterrence. The complaints director is not seeking suspension of Mr. Sattari, further education or conditions on his practice permit due to his cooperation throughout this process. The complaints director submits that it is reasonable for Mr. Sattari to pay the costs of the investigation and hearing and he can make arrangements to pay these over a period of

time. The issue of publication in this matter is now the discretion of the Registrar pursuant to the Bylaws.

Mr. Sattari submitted that:

- He accepts that he committed unprofessional conduct and maintains this was unintentional,
- There have been no claims against him during the time he practiced without professional liability insurance,
- This is his first offense and he assures the Hearing Tribunal this will not happen again,
- Having a condition placed on his registration that he must provide proof of professional liability insurance annually in order to obtain a practice permit is appropriate,
- The reason he was unrepresented during the Hearing was due to a costly family crisis,
- He does not want his practice permit suspended so he can continue working as a pharmacist, and
- He requests that the results of the Hearing be published on an unnamed basis.

The complaints director submitted that a condition placed on Mr. Sattari's practice permit was considered but deemed not necessary to protect the public. The condition would trigger the need to notify employers and other colleges of pharmacy. The complaints director submitted that this condition would not be required in this matter.

The Hearing Tribunal carefully considered the submissions from both the College and Mr. Sattari and makes the following orders:

- 1. A reprimand. This decision shall serve as the written reprimand for Mr. Sattari.**
- 2. A fine of \$1,000, payable on a schedule acceptable to the complaints director.**
- 3. The payment of all costs of the investigation and hearing on a schedule acceptable to the complaints director.**

In terms of the fine, the Hearing Tribunal agreed with the complaints director that a punitive fine was necessary in this matter. The range of fine for a finding of unprofessional conduct is up to \$10,000 but a higher fine is not appropriate in this matter due to the similarity of fines in other related cases and the cooperation of the member throughout the process. The Tribunal feels that a fine is needed in this matter as a measure of general deterrence to the membership at large and \$1,000 is reasonable in this case.

The Hearing Tribunal determined that Mr. Sattari should be responsible for the full costs of the investigation and hearing process because:

- It is reasonable for Mr. Sattari to pay the full costs as the investigation and hearing were required due to his professional misconduct,
- The investigation costs were low – estimated at the time of the hearing to be \$1,900,
- The hearing was as efficient as possible due to Mr. Sattari’s cooperation, and
- Mr. Sattari can make arrangements with the complaints director to pay the costs over time.

With respect to publication of Mr. Sattari’s name in the *acpnews*, the Hearing Tribunal does not see any unusual circumstances that would warrant withholding the details of this matter or replacing Mr. Sattari’s name with a pseudonym. The Hearing Tribunal recognizes the need for general deterrence and transparency of the hearing process to the public and the profession and as per the College bylaw 78, leaves the final decision to publish the member’s name to the registrar of the College.

Signed on behalf of the Hearing Tribunal by
the Chair

Dated: [August 22, 2012]

Per: [Peter Macek]

Peter Macek