

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

ROBERT STADNYK

Registration number: 4957

DECISION OF THE HEARING TRIBUNAL

I. INTRODUCTION

The Hearing Tribunal held a hearing into the conduct of Robert Stadnyk. In attendance on behalf of the Hearing Tribunal were Charan Kamal Dullat, pharmacist and Chair, Anita McDonald, pharmacist and June McGregor, public member. Katrina Haymond acted as independent counsel to the Hearing Tribunal.

The hearing took place on August 18, 2020 via videoconference. The hearing was held under the terms of Part 4 of the *Health Professions Act* (“HPA”).

The following persons were also in attendance at the hearing: Annabritt Chisholm, legal counsel for the Complaints Director, and James Krempien, Complaints Director. Robert Stadnyk was also present. Mr. Stadnyk confirmed that he was aware of his right to be represented by legal counsel and was represented by his legal counsel Karen Smith.

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

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

II. ALLEGATIONS

The Notice of Hearing was entered into the record and was marked as Exhibit 1. The allegations set out in the Amended Notice of Hearing were as follows:

IT IS ALLEGED THAT, as a licensed pharmacist in Alberta (ACP License # 4957) you:

1. between February 13, 2016 and February 19, 2019, while you were employed as a registered Alberta pharmacist at Greg’s Remedy’s Rx (the “Pharmacy”), you diverted approximately 98 tablets of Cialis 5mg, 12 tablets of Cialis 20mg and 2 tablets of ACT-Tadalafil 20mg from the Pharmacy on eight separate occasions without a valid prescription.

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. Failed to exercise the professional and ethical judgment expected and required of an Alberta pharmacist; and
- e. Acted contrary to accepted pharmacy practice.

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

- Standard 1 (sub-standards 1.1 and 1.2) of the Standards of Practice for Pharmacists and Pharmacy Technicians; and
- Principles 10(1) and 10(2) and 11 of the Alberta College of Pharmacy Code of Ethics; and
- Sections 31(2)(a) and 38 of the *Pharmacy and Drug Act*;

and that your conduct set out above and the breach of some or all of these provisions constitutes unprofessional conduct pursuant to sections 1(1)(pp)(ii), 1(1)(pp)(iii), and 1(1)(pp)(xii) of the *Health Professions Act*.

III. EVIDENCE

The hearing proceeded by way of an Agreed Statement of Facts and other agreed exhibits, including an Admission of Unprofessional Conduct. No witnesses were called to testify.

The following exhibits were entered by agreement of the parties:

Exhibit 1: Notice of Hearing

Exhibit 2: Admission of Unprofessional Conduct

Exhibit 3: Agreed Statement of Facts

Agreed Statement of Facts:

A copy of the text of the Agreed Statement of Facts (paragraphs 1-12) is attached to the Hearing Tribunal's decision as Appendix A. The exhibits referred to therein or referred to in other parts of the decision have not been reproduced and do not form part of the Hearing Tribunal's decision.

Admission of Unprofessional Conduct:

In the Admission of Unprofessional Conduct (Exhibit 2), Mr. Stadnyk admitted the allegation set out in the Notice of Hearing. Mr. Stadnyk further agrees and acknowledges that his conduct breaches sections 31(2)(a) and 38 of the *Pharmacy and Drug Act*; Standard 1 and sub-sections 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians; and Principles 10(1), 10(2) and 11 of the Alberta College of Pharmacy Code of Ethics. He further admitted that his conduct constitutes "unprofessional conduct" as defined in sections 31(2)(a) and 38 of the *Pharmacy and Drug Act* and s 1(1)(pp)(ii), 1(1)(pp)(iii), and 1(1)(pp)(xii) of the *Health Professions Act*.

Agreed Exhibits:

The parties submitted an Agreed Statement of Facts (Exhibit 3) that included the following attachments:

- Exhibit A: The Email from [FS] to Jim Krempien (the “Complaints Director”) enclosing initial complaint email from Mr. [GB] (the “Complainant”) to the Alberta College of Pharmacy, dated June 7, 2019.
- Exhibit B: Letter from the Complaints Director to R. Stadnyk, dated June 11, 2019.
- Exhibit C: Letter from the Complaints Director to the Complainant regarding new Complaint with registered mail receipt, dated June 11, 2019.
- Exhibit D: Email from the R. Stadnyk to the Complaints Director, enclosing letter of response to Complaint, dated July 4, 2019.
- Exhibit E: Letter from the Complainant to the Complaints Director regarding additional information, dated July 9, 2019.
- Exhibit F: Memo from the Alberta College of Pharmacy’s (the “College”) Investigator regarding the meeting with the Complainant, dated August 13, 2019.
- Exhibit G: Memo from the College’s Investigator regarding the meeting with the Mr. Stadnyk, dated August 14, 2019.

Additional resources in the form of Tabs were provided as follows:

Tab 4: Standards of Practice for Pharmacists and Pharmacy Technicians.

Tab 5: Alberta College of Pharmacy Code of Ethics.

Tab 6: *Pharmacy and Drug Act*.

Tab 7: *Health Professions Act*.

IV. SUBMISSIONS

Ms. Chisholm made submissions on behalf of the Complaints Director. Ms. Chisholm submitted that the Hearing Tribunal’s task is to determine whether the allegation in the Notice of Hearing is factually proven on a balance of probabilities. If the Hearing Tribunal determines that the allegation is factually proven on a balance of probabilities (with admissions as the evidence), it must also determine whether the conduct constitutes unprofessional conduct as defined in *the Health Professions Act* (HPA) or as defined in the *Pharmacy and Drug Act*. The admissions by Mr. Stadnyk were made pursuant to s. 70 of HPA. If the Hearing Tribunal finds that the conduct is proven, then the Tribunal can proceed to consider sanction.

Ms. Chisholm explained that the hearing involves Mr. Stadnyk’s conduct in his capacity as a pharmacist between February 13, 2016 to February 19, 2019, while employed as pharmacist at Greg’s Pharmacy. On June 7, 2019, the College received a complaint from Mr. [GB] (Greg’s Remedy Rx, the “Pharmacy”) that Mr. Stadnyk diverted approximately 98 tablets of Cialis 5 mg, 12 tablets of Cialis 20 mg and 2 tablets of ACT-Tadalafil 20 mg from the Pharmacy on eight separate occasions without a valid prescription (the “Complaint”).

Ms. Chisholm then reviewed the allegation in the Notice of Hearing and provided a detailed review of each of the documents included in the Agreed Statement of Facts (Exhibit 3). Ms. Chisholm explained that during the College’s investigation, Mr. Stadnyk admitted to the

findings. As part of the initial response to the Complaints Director, Mr. Stadnyk stated, his memory being fuzzy and disjointed, and suffering from severe mental condition, including depression and suicidal thoughts, not able to provide explanation of events. He stated further that he could have obtained a prescription but was embarrassed and emasculated and pills were still in his possession. He thought that he could offset the costs by not billing hours of his worked time. He also explained his previous issues with the CRA, resulting criminal conviction and termination of his long-term job, related complaint with ACP and broken marriage as some of the reasons for his irrational decision in this case of diversion.

He further explained that he loved his profession, became a Certified Diabetes Educator, developed a program and also assisted recently released inmates on medications to reintegrate into society. Mr. Stadnyk also accepted that he does need help (through counselling) and has made bad decisions, and that he felt stupid about the diversion. He does trust the Complainant's calculations as his recollection of events is unclear and tablets were diverted for personal use only, and most tablets were still in his possession but could not provide the estimate number diverted.

Ms. Chisholm also added that the parties reviewed the records and agreed that the information in paragraph 11 of the Agreed Statement of Facts was an accurate reflection of the quantities of drugs that were diverted. Ms. Chisholm submitted that there was sufficient evidence to demonstrate that the allegation was proven, as per the Notice of Hearing. All the records were not included in the evidence but are outlined in paragraph 11 of Agreed Statement of Facts. Further, Mr. Stadnyk's actions have the potential to decrease public trust in the profession of pharmacy, and the member acted contrary to accepted pharmacy practice. There was enough proof through admitted facts to support the admission of unprofessional conduct.

Ms. Smith made submissions on behalf of Mr. Stadnyk. Ms. Smith submitted that the member has been cooperative from the beginning and acknowledged the unprofessional conduct from the moment the member was confronted by the employer. The member has provided an explanation and not an excuse for his actions. Ms. Smith explained that the member was in the face of loss of employment following his criminal conviction, and tax bills owing to CRA, all of which was made public. While the member acknowledges responsibility for his conduct these were challenging times for the member. Ms. Smith also pointed out the factual context of the diversion of Schedule 1 drugs on which to make the finding of unprofessional conduct, in addition to the member's admission and acknowledgement about diversion. Further, it was noted that there were no patients involved and the diversion was for personal use, so there was no patient safety concern.

V. FINDINGS

The Hearing Tribunal accepted Mr. Stadnyk's admission of unprofessional conduct pursuant to s. 70 of the HPA. The Hearing Tribunal finds that the allegation set out in the Notice of Hearing is proven, and that the conduct constitutes unprofessional conduct as defined in the HPA and in the *Pharmacy and Drug Act*.

In determining that the allegation is proven and that Mr. Stadnyk's admission should be accepted, the Hearing Tribunal carefully considered the Agreed Statement of Facts entered into by the parties, and the documentation submitted by agreement. Based on the information submitted during the hearing, the Hearing Tribunal finds that allegation in the Notice of Hearing is factually proven on a balance of probabilities, and the member has acknowledged that his conduct constitutes unprofessional conduct.

The Hearing Tribunal also considered whether the conduct in issue constitutes "unprofessional conduct". For the reasons outlined below, the Hearing Tribunal was satisfied that Mr. Stadnyk's conduct constitutes unprofessional conduct, as defined in both the HPA and the *Pharmacy and Drug Act*.

Diversion of Schedule 1 medications from the pharmacy without a prescription represents dishonest conduct that undermines the integrity of the profession and decreases the public's trust in the profession, contrary to Principles 10(1), 10(2) and 11 of the Alberta College of Pharmacy Code of Ethics. Mr. Stadnyk's conduct also demonstrated that he allowed his professional judgment to be impaired and compromised by his self-interest due to his personal situation, contrary to Principle 11 of the Alberta College of Pharmacy Code of Ethics. The public should be entitled to expect that pharmacists will not allow their own interests to take precedence over their professional obligations and judgment. This case involves 8 occasions over a three-year interval (February 2016 to February 2019) where Mr. Stadnyk diverted drugs from the pharmacy for his personal use. In doing so, he abused his employer's trust in a manner that undermined his role as a pharmacist. The Hearing Tribunal finds that Mr. Stadnyk contravened Standards 1 and subsection 1.1 (a), 1.1 (b), 1.1 (c), 1.1 (d), 1.1 (e), 1.1 (f), 1.1 (g) and 1.2 of the Standards of Practice for the Pharmacists and Pharmacy Technicians. The importance of pharmacists and pharmacy technicians acting professionally is important for professional self-regulation and professionalism to enable regulators like the College to regulate effectively in the public interest. Mr. Stadnyk breached these standards repetitively over a lengthy period of time, and in these circumstances his conduct constitutes unprofessional conduct.

Mr. Stadnyk's conduct also harms the integrity of the profession of pharmacy and is contrary to the expectations of a pharmacist. Mr. Stadnyk failed to demonstrate the ethical conduct and professional judgment expected and required of an Alberta pharmacist. This decreases the public trust in the profession.

The Hearing Tribunal concluded that Mr. Stadnyk's conduct of diversion of schedule 1 medications does constitute unprofessional conduct.

VI. SUBMISSIONS ON SANCTIONS:

After the Hearing Tribunal deliberated, the Hearing Tribunal advised the parties that it accepted the Admission of Unprofessional Conduct by Mr. Stadnyk and determined that the conduct admitted to constituted unprofessional conduct. The Hearing Tribunal invited the parties to make submissions with respect to sanctions.

Ms. Chisholm provided the Hearing Tribunal with a Joint Submission on Sanction, signed by both Mr. Stadnyk and Mr. Krempien (Exhibit 4).

Ms. Chisholm explained that the purpose of sanctions is to protect the public from similar conduct, protect the integrity of the profession, provide deterrence and to be fair to the member. Ms. Chisholm indicated that the parties were jointly proposing a number of sanctions, including the following: a suspension for a period of four months, with three months being held in abeyance; Mr. Stadnyk providing a copy of the Hearing Tribunal's decision to the proprietor and licensee of any pharmacy where he works for a period of three years; a condition on Mr. Stadnyk's practice permit stating that he cannot be the owner, proprietor or licensee of a pharmacy for three years; the requirement to pay a fine in the amount of \$3,000.00, and investigation and hearing costs to a maximum of \$10,000.00.

Ms. Chisholm advised that the costs at the end of July were approximately \$12,000.00 but does not take into account the increased cost incurred since that time.

Ms. Chisholm made submissions regarding the application of a number of factors referred to by the Court in *Jaswal v. Medical Board (Newfoundland)*. Ms. Chisholm submitted that the nature and gravity of allegations and degree that it was regarded as unprofessional and any case of diversion should be considered as serious. Ms. Chisholm further noted that Mr. Stadnyk has been a regulated member of the College since 1993, and is a senior member. She also noted that the member does have one earlier finding but it was not a comparable case, because it did not involve diversion. Diversion occurred on eight occasions over 3-year period (February, 2016 to February, 2019).

Ms. Chisholm also submitted that the fact that Mr. Stadnyk admitted and acknowledged his conduct was a mitigating factor, which allowed the proceeding to occur in a cooperative and efficient manner, he was terminated from his employment, and has had a condition on his permit since August 2019 and is prohibited from serving as a licensee.

Ms. Chisholm also indicated that it is very clear that Mr. Stadnyk's conduct was outside of the range of permitted conduct for a professional and is clearly serious in nature. The deterrent impact on the member and professional generally is important and the sanctions will ensure that Mr. Stadnyk does not engage in similar conduct in the future. Upholding public confidence in the integrity of the profession through taking these issues seriously is important for self-governing regulatory bodies.

Ms. Chisholm also made submissions with respect to sanctions imposed in three previous similar but not identical cases and suggested that the orders jointly proposed were consistent with those presented, given the specific facts in this case.

Ms. Chisholm also made submissions regarding the role of the Hearing Tribunal when considering a joint submission on sanctions and referenced the Saskatchewan Court of Appeal's decision in *Rault v. Law Society of Saskatchewan*, and the Supreme Court of Canada's decision in *R. v. Anthony Cook*. Ms. Chisholm explained that the joint submission is a product of negotiation, and that while the Hearing Tribunal is not bound to accept it, the Hearing Tribunal should exercise significant deference when presented with a Joint Submission on Sanctions.

Ms. Smith made submissions on behalf of Mr. Stadnyk with respect to sanctions. She did set out five objectives for Sanctions including: protection of the public being most important, deterrence of other members and Mr. Stadnyk, integrity and fairness of the profession, and rehabilitation. Ms. Smith also mentioned that sanctioning authority is very broad under s. 82 of the HPA and also recognizes that any time a member is involved in a hearing, it is serious. However, looking at the gravity and nature of the offence, the conduct is at the low end of the spectrum. She pointed out that the member is an experienced member who was suffering from depression, panic attacks, and suicidal thoughts. In addition, the previous discipline matter had a significant financial impact on him, and he suffered significant consequences as a result of the 2016 incident. He lost his job, was under house arrest, and was alone and isolated.

Ms. Smith submitted that the member engaged in a self-destructive course of action, but that his actions did not impact patients/clients of the pharmacy. She submitted that the episodes of diversion were sporadic over a two- and half-year time period and labelled Mr. Stadnyk's actions as foolhardy, selfish, inappropriate, although not towards a patient or client. Ms. Smith agreed with the sanctions jointly proposed and submitted that they were appropriate, considering the member's history which include his active contributions to the community, his development of a program for inmates to ensure medication compliance, and his participation in weekly counselling. Further, she indicated that he now has a family physician and is seeking treatment for his depression and mental health issues.

Ms. Smith also referenced the requirement to defer to a Joint Submission on Sanction, referencing the *Anthony Cook* case, and submitted that the orders are appropriate and should be accepted.

The Hearing Tribunal adjourned to consider the submissions provided on behalf of both of the parties. When the hearing reconvened, the Hearing Tribunal requested further clarification from the parties regarding whether there was a mental health issue that caused Mr. Stadnyk's actions. The Hearing Tribunal also requested clarification regarding the rationale for the length of the suspension, and whether the parties had adequately considered that this was Mr. Stadnyk's second finding of unprofessional conduct.

Ms. Chisholm confirmed that the member provided information about his mental health, and while it was an explanation for his actions, it was not an excuse. Therefore, his explanation was accepted as such and the Complaint Director considered it unnecessary to consider it in the sanctions.

With respect to the time period of the suspension, Ms. Chisholm indicated that the length of the suspension in this matter was four months, rather than two months in the previous matter. She further indicated that a higher fine was warranted in the previous matter, given that there was evidence of monetary benefit in the previous matter, whereas there was no monetary benefit to the member in this case.

Ms. Smith explained that the parties were not proposing any sanctions related to the member's mental health, because there was no evidence that it was a current issue. The mental health issues were the result of number of events, including the sanctions flowing from the criminal charges.

Ms. Smith also submitted that the length of suspension and amount of the fine were appropriate in this case, given that the first matter was far more serious. The conduct in this case involved personal diversion, whereas the previous matter involved a more significant public impact.

After considering the submissions of the parties, the Hearing Tribunal advised the parties that it was prepared to accept the orders jointly proposed by the parties, as set out in the Joint Submission on Sanctions, including the suspension for a period of four months. However, given Mr. Stadnyk's explanation regarding his state of mind at the time the conduct occurred, the Hearing Tribunal advised the parties that it was considering imposing an additional order, requiring Mr. Stadnyk to provide a letter from a medical professional confirming that he was fit to practice, before returning to work. The parties were provided a further opportunity to make comments, and then adjourned to consider their respective positions.

After a brief adjournment, Ms. Smith advised that Mr. Stadnyk did not object to the order being considered by the Hearing Tribunal, and that Mr. Stadnyk would obtain a letter from his physician before the 30-day suspension ended, confirming his fitness to practice.

VII. ORDERS AND REASONS FOR ORDERS

After considering the submissions of both parties, the Hearing Tribunal advised the parties that it accepts the Joint Submission on Sanction with the addition of letter to confirm that Mr. Stadnyk is fit to practice from his physician, and makes the following orders pursuant to s. 82 of the *Health Professions Act*:

1. Mr. Stadnyk's practice permit shall be suspended for a period of four months, with
 - a. One month to be served starting on a date acceptable to the Complaints Director and being no later than 30 days after the date of the Hearing Tribunal's written decision; and
 - b. Three months to be held in abeyance pending Mr. Stadnyk's compliance and there being no similar complaints regarding diversion coming to the attention of the Complaints Director for a period of two years from the date the Hearing Tribunal issues its written decision.

If the Complaints Director receives a new complaint about Mr. Stadnyk related to diversion of drugs within two years from the date the Hearing Tribunal issues its written decision, the Complaints Director shall then be at liberty to impose the remaining three-month suspension on Mr. Stadnyk's practice permit. If no further diversion complaints come to the attention of the Complaints Director for a period of two years from the date the Hearing Tribunal issues its written decision, the remaining three-month suspension shall then expire.

3. Prior to being eligible to have his practice permit reinstated following the period of suspension referred to above in paragraph #2, Mr. Stadnyk will provide the Complaints Director with a letter from his treating physician confirming his fitness to practice.
4. Mr. Stadnyk shall provide a copy of the Hearing Tribunal's written decision to the proprietor and licensee of any pharmacy in which he applies to work or works as a pharmacist for a period of three years, commencing on the date he receives a copy of the Hearing Tribunal's written decision.
5. A condition shall be placed on Mr. Stadnyk's practice permit that states he shall not be permitted to be an owner, proprietor or licensee of a pharmacy for a period of three years, commencing on the date he receives a copy of the Hearing Tribunal's written decision.
6. Mr. Stadnyk shall pay a fine of \$3,000 payable in accordance with a monthly payment schedule as directed by the Hearings Director. The fine shall be paid in full within 180 days of the date Mr. Stadnyk receives a copy of the Hearing Tribunal's written decision.
7. Mr. Stadnyk shall be responsible for payment of all costs of the investigation and hearing to a maximum of \$10,000. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director. The costs shall be paid in full within 24 months of the date he receives a copy of the Hearing Tribunal's written decision.

The Hearing Tribunal carefully considered the submissions by the parties with respect to the deference that must be exercised when considering a Joint Submission on Sanction. The cases referred to establish that when a joint submission is presented, the Hearing Tribunal should exercise deference and should not reject or vary it unless there is good reason to do so. The courts have held that the bar for rejecting or varying a joint submission is high, and the Hearing Tribunal must not do so unless it is unfit, unjust or unreasonable, or unless it brings the administration of justice into disrepute.

Although the Tribunal had reservations regarding the proposed sanctions, and if not for the joint submission would likely have ordered more significant penalties, the Hearing Tribunal is aware of the legal authorities that indicate the need to exercise deference when reviewing a joint submission on sanction. The Hearing Tribunal reviewed the orders proposed carefully, and did not feel that it was unfit, unjust or brought the administration of justice into disrepute. Therefore, the Tribunal agreed to the Joint Submission with its added recommendation.

Further, the Hearing Tribunal considered:

- The seriousness of Mr. Stadnyk's proven unprofessional conduct, it was severe and alarming for a member of the pharmacy profession considering

that it entailed the diversion of schedule 1 medications and that it occurred over an extensive time frame.

- Although Mr. Stadnyk had a prior discipline history but unrelated to diversion of Schedule 1 medication and did admit to the conduct and was cooperative during the investigation, this had to be weighed against the totality of Mr. Stadnyk's proven unprofessional conduct and the gravity and seriousness of the allegation. The Hearing Tribunal took into consideration the fact that Mr. Stadnyk is not a new or inexperienced pharmacist unaware of how to conduct himself, so inexperience should not be considered a mitigating factor. This was a case about basic ethical expectations and all regulated members are expected to conduct themselves appropriately, with integrity, honesty and in compliance with the law at all times, regardless of their degree of experience or seniority.
- The Tribunal also considered that pharmacists are regarded as important members of the healthcare team who are both trusted and empowered to self-regulate. Given Mr. Stadnyk's position as a pharmacist, and the position of trust that he held, the conduct is serious, and a period of suspension is warranted.
- During the hearing, Ms. Smith indicated that Mr. Stadnyk's actions should be considered in light of the fact that he suffered serious consequences following his criminal conviction. He was alone and isolated at the time the incidents occurred. Although Ms. Smith indicated that Mr. Stadnyk now has a family physician and had obtained treatment for depression and mental health issues, the parties did not provide any evidence from a qualified professional to confirm Mr. Stadnyk's current fitness to practice. For that reason, and in accordance with Mr. Stadnyk's agreement, the Hearing Tribunal determined that it was important to obtain confirmation from a qualified professional that he is fit to practice, before returning to work.

The Hearing Tribunal will also like to remind Mr. Stadnyk of the importance of seeking appropriate medical help for medical issues that he may encounter in the future.

After considering the submissions of the parties, the Hearing Tribunal felt that the orders set out in the Joint Submission with addition of the letter confirming his fitness to practice were appropriate, and are sufficient in light of the nature of the conduct to deter Mr. Stadnyk and others from engaging in similar conduct in the future.

Signed on behalf of the Hearing Tribunal by the Chair on the 5th day of October 2020.

Per: 
[Charan Kamal S Dullat \(Oct 5, 2020 09:40 MDT\)](#)

Charan Kamal Singh Dullat

APPENDIX A

IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, being
Chapter H-7 of the Revised Statutes of Alberta, 2000

AND IN THE MATTER OF AN INVESTIGATION REGARDING
THE CONDUCT OF ROBERT STADNYK, A REGULATED
MEMBER OF THE ALBERTA COLLEGE OF PHARMACY

AGREED STATEMENT OF FACTS

1. Mr. Stadnyk was first registered as a clinical pharmacist in Alberta on October 7, 1993.
2. At all relevant times, Mr. Stadnyk was employed as a pharmacist at Greg's Remedy's Rx (the "Pharmacy"), located in Medicine Hat, Alberta.
3. On June 7, 2019, the Complaints Director received an email from Mr. [GB], a registered clinical pharmacist with the Alberta College of Pharmacy and the owner of the Pharmacy. Mr. [B]'s email stated that he had terminated Mr. Stadnyk's employment as a result of Mr. Stadnyk's diversion of Cialis 5mg, Cialis 20mg and generic tadalafil from the Pharmacy. Mr. [B]'s email is attached at Exhibit "A" to this Agreed Statement of Facts.
4. Based on Mr. [B]'s complaint, the Complaints Director appointed himself and Ms. Jennifer Mosher as investigators and an investigation into the conduct of Mr. Stadnyk commenced. As a result of the investigation, the Complaints Director referred this matter to a hearing.

Facts Relevant to the Complaint

5. On June 11, 2019, the Complaints Director sent a letter to Mr. Stadnyk informing him of the investigation and requesting a written response. This letter is attached as Exhibit "B" to this Agreed Statement of Facts.
6. On June 11, 2019, the Complaints Director sent a letter to Mr. [B] acknowledging his complaint and requesting additional information and documentation. This letter is attached as Exhibit "C" to this Agreed Statement of Facts.
7. On July 4, 2019, the Complaints Director received Mr. Stadnyk's written response to the complaint. This letter is attached as Exhibit "D" to this Agreed Statement of Facts. In part, Mr. Stadnyk stated:
 - a. His memory of the incidents referred to in Mr. [B]'s complaint were "fuzzy and disjointed." He was suffering from a "relatively severe mental condition" for the last three years, including depression, severe panic attacks

and suicidal thoughts. He is not able to provide an explanation of the events or his decision process.

- b. He could have gotten a prescription from a doctor or a prescribing pharmacist, but he was “thoroughly embarrassed and emasculated.” He admitted that “even though [he] took some of the pills, there was no need. [He] still ha[d] most of the meds in [his] possession.”
 - c. He “thought to offset the cost of the meds by not billing the additional hour that [he] worked.” He cannot say why he thought that made sense at the time.
 - d. He explained having issues with Canada Revenue Agency, being terminated from a company he had worked at for 20 years, the breakup of his 20-year marriage, a previous complaint with the Alberta College of Pharmacy and a related criminal conviction and loss of reputation.
 - e. He stated that he loves his profession and his job as a pharmacist. Instead of admitting he needed help, he became a Certified Diabetic Educator and developed a program for people with diabetes dealing with their medications and their diet. He also started a program to assist recently released inmates on medications reintegrate into society.
 - f. He also stated that he started receiving medical treatment and seeing a counsellor weekly.
8. On July 9, 2019, Mr. [B] provided pharmacy records (Kroll Drug Inventory History Reports, McKesson Invoices and an Imperial Invoice) and an additional written statement to the Complaints Director. Mr. [B]’s written statement is attached as Exhibit “E” to this Agreed Statement of Facts and it includes, in part, that:
- a. Mr. Stadnyk began employment as a contract relief pharmacist at the Pharmacy in late 2015.
 - b. On July 25, 2018, a Pharmacy employee witnessed Mr. Stadnyk remove a package of 4 Cialis 20mg tablets from the Pharmacy without paying. The security video that captured this incident was overwritten before Mr. [B] reviewed it and Mr. [B] did not review the matter with Mr. Stadnyk.
 - c. On February 19, 2019, a Pharmacy employee witnessed Mr. Stadnyk adjusting the computer inventory and removing a sleeve of 14 Cialis 5mg tablets from the Pharmacy without paying. Mr. [B] reviewed the security video and verified the employee’s report.

- d. After this incident, Mr. [B] audited and cross referenced the Pharmacy's tadalafil purchases against sales. He noted Mr. Stadnyk made numerous manual adjustments of tadalafil between January 2016 and the date of his termination, due to theft and not legitimate corrections.
 - e. No inventory adjustments of tadalafil occurred after Mr. Stadnyk's employment was terminated.
 - f. On February 22, 2019, Mr. [B] confronted Mr. Stadnyk via telephone. Mr. Stadnyk admitted to removing tadalafil from the Pharmacy, mainly because he was embarrassed and did not have a family physician. He also admitted to removing Cialis from the Pharmacy.
 - g. On March 1, 2019, Mr. [B] provided a written termination letter to Mr. Stadnyk.
 - h. The Pharmacy's security videos have since been overwritten and could not be provided to the Complaints Director.
9. On August 13, 2019, Ms. Mosher met with Mr. [B] at the Pharmacy. A summary of the meeting is attached as Exhibit "F" to this Agreed Statement of Facts. In part, Mr. [B] confirmed to Ms. Mosher that:
- a. Ms. [REDACTED] a pharmacy assistant at the Pharmacy, witnessed Mr. Stadnyk remove tadalafil from the pharmacy on July 25, 2018 and February 19, 2019.
 - b. He reviewed the security video from February 19, 2019 and observed Mr. Stadnyk adjusting the tadalafil inventory on the computer terminal, moving out of range of the video, towards his coat, with a sleeve of tadalafil and returning with his coat and without the tadalafil, and then exiting the Pharmacy.
 - c. He calculated the missing drugs by considering the quantity of Cialis and generic tadalafil tablets ordered, the quantity dispensed and the on-hand inventory.
 - d. There had been no unaccounted-for inventory adjustments to the tadalafil inventory at the Pharmacy since Mr. Stadnyk's termination.
10. On August 14, 2019, Ms. Mosher met with Mr. Stadnyk. A summary of their meeting is attached as Exhibit "G" to this Agreed Statement of Facts. In part, Mr. Stadnyk indicated to Ms. Mosher that:

- a. His mindset at the time of the events in question was such that he made "bad decisions" and felt "stupid" about taking the tadalafil from the Pharmacy. Since that time, Mr. Stadnyk has been attending counselling every Saturday and has found that to be very helpful.
- b. His recollection of the events in question are "a bit unclear" and he trusted Mr. [B]'s calculations.
- c. He estimated the number of occurrences where he took tadalafil as "maybe 2" occurrences, but was not able to provide a period of time during which these occurrences occurred as he was "out in a fog".
- d. His methods in obtaining tadalafil without a valid prescription did not compromise the safety of his patients. He did not alter patient records, nor did he bill these tablets to a third party. He would simply manually adjust the Pharmacy's Kroll inventory count to account for the tablets that he removed from the Pharmacy.
- e. The tadalafil tablets that he took from the Pharmacy were for personal use only. "Most" of the tablets remain in his possession; however, he was not able to provide an estimate of the quantity remaining.
- f. He takes pride and comfort in his practice as a pharmacist.

11. In preparation for the Hearing, the parties have had an opportunity to review the Pharmacy's records provided by Mr. [B] and agree that there is evidence that Mr. Stadnyk removed ACT-tadalafil 20mg, Cialis 5mg and Cialis 20mg from the Pharmacy without a valid prescription, without paying for the drugs, and without the authority to do so, as follows:

Date	Number of Tablets and Drug Type
February 13, 2016	4 x Cialis 20mg
March 26, 2016	4 x Cialis 20mg
November 8, 2016	2 x ACT-tadalafil 20mg
June 26, 2017	28 x Cialis 5mg
November 25, 2017	28 x Cialis 5mg
July 25, 2018	4 x Cialis 20mg
September 4, 2018	28 x Cialis 5mg
February 19, 2019	14 x Cialis 5mg
Total Tablets: 112 (98 tablets of Cialis 5mg; 12 tablets of Cialis 20mg; and 2 tablets of tadalafil).	

12. Mr. Stadnyk has received legal advice prior to signing this Agreed Statement of Facts and understand that the Hearing Tribunal may use this Agreed Statement of Facts as proof of the allegations set out in the Notice of Hearing.

THE ABOVE FACTS ARE AGREED TO BY:

[REDACTED]

ROBERT STADNYK

[REDACTED]

JAMES KREMPIEN,
COMPLAINTS DIRECTOR OF THE ALBERTA COLLEGE OF PHARMACY