

ALBERTA COLLEGE OF PHARMACY

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

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF

Kevin Charles Zapf
Registration Number 12544

DECISION OF THE HEARING TRIBUNAL

February 10, 2020

I. INTRODUCTION

- [1] The Hearing Tribunal of the Alberta College of Pharmacy (“College” or “ACP”) held a hearing into the conduct of Kevin Charles Zapf. The following members of the Hearing Tribunal were in attendance:

Hearing Tribunal:

Kelly Olstad, pharmacist and Chair
Anil Goorachurn, pharmacist
Pat Matusko, public member

The following persons were also in attendance:

Kevin Charles Zapf, investigated person
Paula Hale, Legal counsel for the Complaints Director
James Krempien, Complaints Director
Julie Gagnon, independent legal counsel for the Hearing Tribunal

- [2] The hearing took place on the 25th day of September, 2019 at the second floor conference center, 8215 - 112 Street NW, Edmonton, Alberta. The hearing was convened pursuant to the terms of Part 4 of the *Health Professions Act* (“HPA”).

II. ALLEGATIONS

- [3] The Allegations that were considered by the Hearing Tribunal are set out in the Notice of Hearing dated May 15, 2019 (“Exhibit 1”), and are as follows:

IT IS ALLEGED THAT between March 23, 2018 and July 8, 2018 while you were a pharmacy student and then provisional pharmacist registered with the Alberta College of Pharmacy (“ACP”) (ACP License #12544), you:

1. Between March 3, 2018 and July 8, 2018, forged prescriptions from Dr. [BF] and fraudulently obtained drugs based on those prescriptions as follows:
 - a. March 29, 2018, prescription for drugs Dexedrine Spansule 15 mg capsules and Tecta 40 mg tablet;
 - b. April 12, 2018, prescription for drugs Propranolol 40 mg tablet, Tegretol 200 mg tablet, Dexedrine Spansule 15 mg capsule and Tecta 40 mg tablet;
 - c. April 27, 2018, prescription for drugs Vyvanse 50 mg tablet and Ventolin HFA 100 mcg;

- d. April 30, 2018 prescription for drugs Vyvanse 50 gm capsules, Ventolin HFA 100 mcg Inhaler, and Dexedrine Spansule 15 mg capsule; and
 - e. May 15, 2018 prescription for the drug Dexedrine Spansule 15 mg capsules;
2. Between March 23, 2018 and July 8, 2018 forged a prescription from Dr. [DM], and fraudulently obtained drugs based on a prescription dated March 23, 2018, for the drugs Dexedrine Spansule 15 mg and Tecta 40 mg;
 3. Between March 23, 2018 and July 8, 2018 forged prescriptions from Dr. [OS] and fraudulently obtained drugs based on those prescriptions as follows:
 - a. June 20, 2018, for the drugs Dexedrine Spansule 15 mg capsule and Tegretol 200 mg tablet;
 - b. July 6, 2018, for the drugs Adderall XR 30 mg capsules, Apo-Propranolol 40 mg tablet, Apo-Zopiclone 7.5 mg tablet and Mylan-Pantoprazole 40 mg tablet.
 4. Between March 23, 2018 and July 8, 2018, forged prescriptions from Dr. [KG] and fraudulently obtained drugs based on those prescriptions as follows:
 - a. May 2, 2018, prescription for Vyvanse 50 mg capsules and Apo-zopiclone 7.5 mg tablets; and
 - b. June 8, 2018, prescription for the drugs Dexedrine Spansule 15 mg capsules, Apo-Propranolol 40 mg tablet, Ventolin HFA 100 mcg inhaler, Mylan pantoprazole 40 mg tablets;

IT IS ALLEGED THAT your conduct in these matters:

- a. Breached the statutory and regulatory obligations of an ACP registrant;
- b. Undermined the integrity of the profession;
- c. Decreased the public's trust in the profession; and
- d. Failed to exercise the professional and ethical judgement expected and required of an ACP registrant.

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

- Standards 1 and 2 and sub-standards 1.1, 1.2, and 2.1(e) of the Standards of Practice for Pharmacist and Pharmacy Technicians;

- Principles 1(1), 10 (1 and 2), and 11 (4 and 5) of the Alberta College of Pharmacy’s Code of Ethics;
- Sections 4(1) of the *Controlled Drugs and Substances Act*;

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

III. PRELIMINARY MATTERS

- [4] There were no objections to the composition of the Hearing Tribunal, the timeliness of the service of the Notice of Hearing, or the jurisdiction of the Hearing Tribunal to proceed with the hearing. The hearing was open to the public pursuant to section 78 of the HPA and no application was made to close the hearing.
- [5] Kevin Zapf raised two concerns of a preliminary nature. The first concern was that he would like to be referred to “as Dr., as opposed to Mr., Stating the reason being “not because I care about the title in a prestige level, but just to avoid discrepancy discussing me being in the PharmD program and a title indicating I haven't graduated from the program.” His second concern was that he preferred his middle name of Charles not be used and that he preferred to be referred to only as Kevin Zapf, not Kevin Charles Zapf.
- [6] Ms. Hale raised no objection to these concerns and noted that, “I can advise the Tribunal he has been referred to as Mr. Zapf because that is the preferred title that is in his registration with the College, I have no issue referring to him as Dr. Zapf.”

IV. EVIDENCE

- [7] Two witnesses were called during the hearing: Mr. James Krempien, Complaints Director for the College and Dr. Zapf who gave evidence on his own behalf.
- [8] The following exhibits were entered into evidence by agreement of the parties:
- Exhibit 1: Notice of Hearing dated September 25, 2018
 Exhibit 2: Investigation Records (with Tabs 1 to 34)
 Exhibit 3: Kevin Zapf’s Written Arguments
- [9] Ms. Hale proceeded to call Mr. Krempien, Complaints Director, as a witness. In support of his evidence, Mr. Krempien relied on portions of his Investigation Records (Exhibit #2) and the Notice of Hearing (Exhibit #1).

James Krempien, Complaints Director

- [10] On August 14, 2018, Mr. Krempien received an email from Monty Stanowich (Tab 1), a Compliance Officer with the Alberta College of Pharmacy. Mr. Stanowich advised him of a discussion with Constable [BJ] (“Cst. [BJ]”) of the Edmonton Police Service (“EPS”) who indicated Dr. Zapf had been investigated and was being charged with fraud and uttering forged documents for writing prescriptions for himself and subsequently diverting the narcotics for his own purposes.
- [11] Mr. Krempien testified that in the absence of receiving a formal complaint “from Cst. [BJ] or somebody else” there was sufficient information to start an investigation into the conduct of Dr. Zapf. Mr. Krempien testified that he completed a Complaint Referral Form (Tab 2). In the memo to file (Tab 3) he said that he appointed himself as investigator to investigate the Complaint pursuant to section 56 of the HPA.
- [12] On August 16, 2018 Mr. Krempien contacted Cst. [BJ] of the EPS (Tab 4). Cst. [BJ] indicated to Mr. Krempien that Dr. Zapf had been arrested and charged with two counts of uttering a forged document. Mr. Krempien said that, “There was one that was presented by Dr. Zapf to the pharmacy on June 11th and one that was presented on June 20th, two separate prescriptions, both containing Amphetamines, plus other medications.” Mr. Krempien said both prescriptions were filled at Safeway Pharmacy in Garneau. He further testified that Cst. [BJ] and [REDACTED] (one of the pharmacists at the Safeway in Garneau), confirmed with the alleged prescribers of the prescriptions that they were not their signatures.
- [13] Further to Mr. Krempien’s conversation with Cst. [BJ], Mr. Krempien telephoned [REDACTED] [REDACTED] at Garneau Safeway Pharmacy. Mr. [REDACTED] agreed to provide Mr. Krempien with additional information and documentation pertaining to the investigation. Mr. [REDACTED] provided Mr. Krempien with information on his interaction with Dr. Zapf where Dr. Zapf indicated to Mr. [REDACTED] that “he was a pharmacy student and would be travelling to Germany.” (Tab 5)
- [14] On August 16, 2018 Mr. Krempien sent a registered letter to Dr. Zapf advising him of the investigation, the details he had so far acquired, and that his actions may constitute unprofessional conduct. He directed Dr. Zapf to respond by September 17, 2018 and stated that he wanted to speak with him via telephone on August 27, 2018. This correspondence was also sent via email to Dr. Zapf. (Tab 6)
- [15] Mr. Krempien testified that on August 16, 2018 he sent an email to Sanja Vejnovic, ACP Complaint Resolution Administrator. The email provided a copy of the notice of complaint that Mr. Krempien had initiated. (Tab 7)
- [16] As a result of the notification sent to Sanja Vejnovic, Mr. Krempien received an email correspondence from Debbie Lee, Registration Director at ACP, on August 17, 2018. In her email Debbie forwarded an email she received from Dr. Zapf on August 15, 2018 where he notified ACP of pending criminal charges against him (Tab 8). Mr. Krempien testified that “even before I had certainly started the investigation” that Dr. Zapf “had already proactively self-disclosed to the College, self-reported to the College the associated criminal matter.”

- [17] Mr. Krempien testified that on August 27, 2018 he had a telephone conversation with Dr. Zapf (Tab 9). Mr. Krempien said that Dr. Zapf had told him he received a copy of the notification of complaint letter sent to him on August 16, 2018 by Mr. Krempien. In this conversation Dr. Zapf also confirmed that he was aware he needed to provide his written response to Mr. Krempien. He told Mr. Krempien that he had recently completed his Level 3 Structured Practical Training at Shoppers Drug Mart in Marda Loop. Mr. Krempien testified that, "For a period of time he had voluntarily stopped practicing. He indicated he had made his licensee aware of these matters, and he was going to start practicing again on August 31st." Mr. Krempien said that Dr. Zapf did not deny the allegations and that Dr. Zapf told him he had copies of his "legitimate and illegitimate prescriptions." Mr. Krempien also said that at this time the nature of his investigation was on the two prescriptions from Garneau Safeway. Mr. Krempien further testified that, "we had a conversation, at his request, about would I be sharing this information, for example, with Cst. [BJ]. I indicated that is not my normal process and that there are some provisions in [section] 125 that could potentially limit the information that the College provides."
- [18] On September 4, 2018 Mr. Krempien sent ██████ an email (Tab 10). Mr. Krempien said that the purpose of his email to Mr. ██████ was to specify "the documents and information I was requesting from him to assist with my investigation." Mr. Krempien also testified that he provided Mr. ██████ his authorization to gather the requested information.
- [19] Mr. Krempien testified that he received an email from Dr. Zapf on September 6, 2018 that had expressed concern over his timeliness of response to Mr. Krempien's original request to receive information from him by September 17, 2018. Mr. Krempien advised Dr. Zapf in his email response to him that he was not anticipating receipt of the information until September 17, 2018 and to contact him prior to September 17, 2018 if an extension was required. (Tab 11)
- [20] Mr. Krempien testified that on September 16, 2018 he received an email from Dr. Zapf "what I would consider to be a partial response to the allegations in the complaint." (Tab 12). In the email Dr. Zapf states "I hope that you accept this preliminary response" and that, "I can absolutely promise to have the full written response at your office by September 26." In his written response Dr. Zapf states that "I was charged with two counts of Uttering a Forged Document and two counts of Fraud Under \$5000." He also wrote that, "I was diagnosed with ADHD and prescribed Adderall XR by Dr. [NC] at the University Health Centre in 2015. I continue to take legitimately authorized psychostimulants to this day; my most recent assessment and authorization was from my new family doctor Dr. [SP] at the Mount Royal Medicentre in Calgary on September 11."
- [21] Mr. Krempien testified that, "He remarked on, as I had requested in my initial notice of complaint letter to him, his past history with illicit drug and alcohol use, and essentially indicated that he was at or below the peer average in terms of alcohol use and was no longer using alcohol." Mr. Krempien further testified that Dr. Zapf, "indicated that he didn't have a prior professional relationship with the Safeway at which the prescriptions were presented to be dispensed." In his written response, Dr. Zapf also states that there was "a brief period of using my legitimately prescribed medication above the prescribed dose for non-recreational purposes." Mr. Krempien testified that, "He is also not, again, denying the fact that he has potentially forged prescriptions to obtain the psychostimulants and other

medications, and he has indicated that he will provide further evidence of illegitimate prescriptions.”

- [22] Mr. Krempien said that “It is concerning, but he has also indicated that he is not practicing, but will be practicing starting on August the 31st, but that his licensee and the other pharmacist staff, is aware of these concerns. He also indicated to me that he is under the care of a physician and seems to be on track. So although I had, I guess, concerns, they didn't warrant, in my opinion, me considering to make a recommendation under section 65 to suspend or place conditions on his license.” In Mr. Krempien’s email response to Dr. Zapf on September 17, 2018 he agreed to an extension to September 26, 2018 for Dr. Zapf’s full response as requested by Dr. Zapf. (Tab 12)
- [23] Mr. Krempien testified that on September 16, 2018, Dr. Zapf was a registrant at the Alberta College of Pharmacy, but as of July 1st, 2019, he did not renew his annual Practice Permit. He testified that on or about August 14 to 17, 2019, Dr. Zapf moved from the provisional pharmacist register to the clinical pharmacist register. Dr. Zapf clarified for the Hearing Tribunal that he moved to the clinical pharmacist register on August 7, 2019. Mr. Krempien further testified that around June 2018 Dr. Zapf was on the student register. Mr. Krempien said that individuals on these registers are able to perform restricted activities as part of their learning under the direct supervision of a pharmacist. This includes things like interacting with the public, assessing prescriptions, creating records, and dispensing prescriptions all under the direct supervision of a pharmacist. He said that “learning activities encompass all of the Standards of Practice and all of those activities as well.”
- [24] On September 17, 2018 Mr. Krempien received two voicemails, one from Mr. [REDACTED] and one from [REDACTED] with Safeway/Sobeys. Mr. Krempien testified that, “they indicated that they had most of the documentation ready and available, but were still waiting for their legal counsel to kind of sign off on providing the health information.” Mr. Krempien then sent an email to Mr. [REDACTED] and Ms. [REDACTED] asking that they provide him with the information by September 20, 2018 and if they had any additional questions about Mr. Krempien’s authority to obtain the information to have their legal counsel reach out to him or Mr. David Jardine at Shores Jardine LLP (Legal Consultants to ACP). (Tab 13)
- [25] On October 1, 2018 Mr. Krempien contacted Mr. [REDACTED] as to inquire about the status of the information and documentation he requested. Mr. [REDACTED] advise that the legal department was still working on the issue and they wanted to be confident they could release the Netcare information to Mr. Krempien. Mr. [REDACTED] suggested that Mr. Krempien contact [REDACTED] of Safeway/Sobeys Pharmacy Operations in an effort to move the process forward. (Tab 14)
- [26] Mr. Krempien testified that on October 2, 2018, he emailed Dr. Zapf reminding him of the requirement to submit his full response by September 26, 2018 and that, as of October 2, 2018, he had not received anything. He advised him that he needed a status update on his required response by 4pm on October 2, 2018. (Tab 16)
- [27] On October 3, 2018, Mr. Krempien received “an extensive response” from Dr. Zapf to his October 2, 2018 email to him (Tab 17). He testified that the response did not address his concerns specifically. He further explained that, “The majority of this e-mail is not about

the concerns of the investigation. The majority of this e-mail talks about his circumstances that prevented him providing his written response by September the 26th.” In his written email response Dr. Zapf states that, “I have this huge pile of evidence, tables, and detailed recollections and explanations and discussions and confessions regarding my shameful history of fraudulent behavior.” Mr. Krempien advised there were no documents attached to Dr. Zapf’s written email response. In Mr. Krempien’s email response to Dr. Zapf on October 3, 2018 he states that “As per your request please phone me tomorrow, October 4, 2018 at 10 am so that we can discuss the submission of your completed written response to the subject complaint.” (Tab 17)

- [28] Mr. Krempien testified in regards to a lengthy telephone conversation that occurred between him and Dr. Zapf on October 4, 2018 (Tab 18). Mr. Krempien advised that Dr. Zapf provided additional information about his last year of his PharmD program. Dr. Zapf told him how he had taken on a “lion’s share” of the work for his work group and that the demands and stress of the rotation had “contributed to his overuse, was his word, of the amphetamines he had been previously prescribed to treat his medical condition.” During the conversation Dr. Zapf described how he used the ADHD drugs in excess of the prescribed dosages and that he independently increased his usage from 30 mg/day (as per the physician’s order) to 90 mg/day without the physician’s knowledge or authority.
- [29] Mr. Krempien testified that during the telephone conversation with Dr. Zapf that he provided a “very comprehensive and complete history of the prescriptions and the instances in which he forged prescriptions to obtain primarily amphetamines and other medications at various pharmacies.” His list included filling forged prescriptions at a Lloydminster pharmacy on 5 to 6 occasions, at the Safeway Pharmacy in Garneau (Edmonton) on 2 occasions, and at the Wal-Mart Pharmacy in Northlands mall (Calgary) on 1 occasion. Dr. Zapf also told Mr. Krempien that several other medications he included on his forged prescriptions (salbutamol, carbamazepine, and propranolol) were there to help cover-up his forgery for the ADHD drugs. Mr. Krempien testified that, “most often forged prescriptions or altered prescriptions contain primarily or solely the drug that the person who is uttering the forged document is attempting to receive. So by adding other medication the theory is that it helps, kind of, hide the forgery and make the prescription more legitimate.” During their telephone conversation, Mr. Krempien testified that he had provided Dr. Zapf until October 30, 2018 for his complete written response.
- [30] Mr. Krempien testified about information he received from Mr. [REDACTED] on October 10, 2018 (Tab 19). He testified that the date on the correspondence from Mr. [REDACTED] says September 5, 2018. However, he did not receive the information until October 10, 2018, as Mr. [REDACTED] was waiting for final approval from Safeway’s legal department before submitting the information to Mr. Krempien. The information received from Safeway included a written statement from Mr. [REDACTED], a witness statement to the EPS, Netcare information of Dr. Zapf’s, and pharmacy prescription documentation. In Mr. [REDACTED]’s written statement he indicates that on June 20, 2018 he went to fill a Dexedrine prescription presented by Dr. Zapf and noticed that it was being filled a little bit early. He recollected that Dr. Zapf had been at the pharmacy earlier in the month filling prescriptions and he remembered him because Dr. Zapf had made it known to staff that he was a new pharmacy graduate. Mr. [REDACTED] phoned Dr. [OS]’s office after receiving the prescription on June 20, 2018 but the office was closed. Mr. Krempien testified that Mr. [REDACTED] filled a part fill of the prescription (120 of the 360

capsules available on the prescription) and that he telephoned the physician's office again the next day to confirm the authenticity of the prescription. At this time, it was confirmed that the prescription had not been written by the prescriber. After detecting this forgery Mr. [REDACTED] reviewed the prescription that Dr. Zapf had filled on June 11, 2018. Mr. [REDACTED] telephoned the prescriber, Dr. [KG], and confirmed that this prescription was not written by Dr. [KG].

- [31] Mr. Krempien identified that he had asked Mr. [REDACTED] for Dr. Zapf's Netcare records. Mr. Krempien asked for the records to compare against information that Dr. Zapf provided to confirm the number of forgeries, the locations of the forgeries, and which physician names he was using to commission his forgeries. Mr. Krempien pointed out that Vyvanse, Dexedrine, and Adderall were all present on the reports and that, "in terms of the amphetamines there seemed to be increasing quantities being dispensed, increasing frequency."
- [32] Mr. Krempien further testified that from March to early July 2018, "it is averaging out to about 176 milligrams of amphetamines a day, so not going from 30 to 90, as Dr. Zapf had estimated, or suggested." Mr. Krempien then spoke to the Patient Medical History report which he had requested from Mr. [REDACTED] which outlined all medications that were dispensed from Garneau Pharmacy on June 11 and June 20, 2018. Mr. Krempien testified that the "information was consistent with the information provided initially by Cst. [BJ], and then also by Mr. [REDACTED], in terms of which prescriptions and medications were being dispensed at the pharmacy for Dr. Zapf."
- [33] According to the Patient Medical History report Dr. Zapf received (Tab 19):
- a. June 20, 2018: Dexedrine Spansule 15 mg capsules (120) and carbamazepine 200 mg tablets (180) from Dr. [OS];
 - b. June 11, 2018: Dexedrine Spansules 15 mg capsules (120), pantoprazole 40 mg tablets (30), salbutamol HFA 100 mcg inhaler, propranolol 40 mg tabs (120) from Dr. [KG].
- [34] Records of dispensing were also provided by Mr. [REDACTED] which verified that the medications had been dispensed by Garneau Safeway Pharmacy. Mr. Krempien further testified that copies of the original prescriptions from Dr. [OS] and Dr. [KG] were provided by Mr. [REDACTED] (Tab 19). These prescriptions relate to allegation 4(b) and 3(a) in the Notice of Hearing. Mr. Krempien knew the prescriptions were not signed by the respective physicians because he, "had contacted each of them directly and they both indicated to me that that is not their signature. In addition, when I met with Dr. Zapf, he also indicated that he had signed these prescriptions."
- [35] Mr. Krempien identified that his next steps were to use the Netcare list supplied by Mr. [REDACTED], with the information provided by Dr. Zapf, to initially contact the other pharmacies to get copies of the prescriptions in question.
- [36] Mr. Krempien received copies of prescriptions in question from Remedy Rx Sunrise Pharmacy in Lloydminster (Tab 20) on October 10, 2018. The first prescription from Dr. [DM] gives rise to Allegation #2. There are prescriptions from Dr. [BF] which relate to

the allegations in #1(a), (b), (d) and (e). There is a prescription from Sunrise Pharmacy from Dr. [KG] which gives rise to Allegation #4(a).

- [37] Mr. Krempien also received copies of prescriptions from Walmart Pharmacy in Calgary, Alberta (Tab 21). The prescription, from Dr. [OS], gives rise to Allegation #3(b).
- [38] On October 11, 2018, Mr. Krempien received a copy of a prescription from Shoppers Drug Mart in Lloydminster, Alberta (Tab 22). This prescription, from Dr. [BF], gives rise to Allegation #1(c).
- [39] On October 31, 2018 Mr. Krempien emailed Dr. Zapf that he had previously authorized an extension to his written response to October 30, 2018 and advising that he had not received his full written response (Tab 23). In this correspondence Mr. Krempien asked Dr. Zapf to respond by email by 4pm on November 1, 2018 in order to advise him of the status of his response. Mr. Krempien also advised him that if he did not provide him with his full written response he would consider whether he has failed or refused to cooperate with his investigation.
- [40] Mr. Krempien testified that his next steps, now that he had copies of the original prescriptions and he knew they were dispensed from the health records, was to contact the prescribers. Mr. Krempien said, "I sent a copy of the prescriptions to each of the corresponding four physicians and asked them to confirm whether Dr. Zapf was a patient of theirs, whether he had attended the office of the clinic for an appointment on which days the prescriptions were to have been written, and whether, in fact, the prescriptions I was providing each of them were their prescriptions and whether they had signed those prescriptions (Tab 24)."
- [41] Mr. Krempien outlined the response he received from Dr. [BF] (Tab 25) on November 2, 2018. Dr. [BF] confirmed that Dr. Zapf had been a patient of the clinic but that he had not attended the office on the dates in question relative to the prescriptions. He further confirmed that the prescriptions were not authorized or signed by himself. Mr. Krempien testified that, "On the basis of that response and on the basis of Dr. Zapf's admissions I concluded that the prescriptions were forged by Dr. Zapf." Mr. Krempien clarified these were the prescriptions referred to in Allegation 1(a), 1(b), 1(c), 1(d), 1(e).
- [42] Mr. Krempien received a response from Dr. [DM] on November 2, 2018 (Tab 26). Dr. [DM] confirmed that Dr. Zapf was a patient of the clinic's but that he did not attend the office on the date in question and the prescription was not written by him for Dr. Zapf. Mr. Krempien testified that, "this prescription was forged by Dr. Zapf, as per allegation #2."
- [43] Mr. Krempien received a response from Dr. [KG] (Tab 31) regarding the prescription in Allegation #4(a). Dr. [KG] advised that Dr. Zapf was not a patient of his or his clinic, that he did not attend his offices on the date in question, and that the prescription was not authorized or signed by him. Dr. [KG] wrote "It's clearly forged" on the communication back to Mr. Krempien.
- [44] On November 5, 2018 Mr. Krempien received an email from Dr. Zapf (Tab 27). Mr. Krempien testified that, "He apologized for being unable to meet the submission deadline for his full written response. He undertook to provide it to me by 2:00 a.m., that would be

November the 6th, and he also provided some additional documentation and information.” Mr. Krempien testified that, “I think he was trying to be as complete as possible. Based on my history with Dr. Zapf, and when I read the brief e-mail that he prefaces these documents with, I am unsure as to whether he wishes to provide any more additional documents. Certainly there was a pattern of him attempting to cooperate with the investigation.” The documents included a Netcare profile which Mr. Krempien said, “essentially provides the same information that I was looking at relative to the period of the alleged forgeries” in relation to the materials he received from Mr. [REDACTED]. Mr. Krempien also outlined that Dr. Zapf had sent him court documents which were consistent with the charges Dr. Zapf reported to the College. Dr. Zapf also provided Mr. Krempien with receipts.

- [45] Mr. Krempien testified that, “he indicated these were all of the prescription receipts that he had retained in respect to prescription medications that he has received, so not only the forged prescriptions but also legitimate prescriptions dating back to 2015.” Dr. Zapf also sent Mr. Krempien identification documents which Mr. Krempien says “were not required, not requested by myself.” He also sent Mr. Krempien a document that Mr. Krempien says, “he indicated this was a summary of the legitimate prescriptions he had received for amphetamines.” Mr. Krempien testified that this was not new information but confirmed a lot of the information that he already had.
- [46] Mr. Krempien responded to Dr. Zapf via email on November 5, 2018 (Tab 28). In his email Mr. Krempien states that he is expecting Dr Zapf’s complete written response by 8am on November 6, 2018 and that after his review he will contact Dr Zapf by phone to arrange a time to meet. Mr. Krempien testified that he did not receive anything further from Dr. Zapf.
- [47] On November 7, 2018 Mr. Krempien sent Dr. Zapf a further email (Tab 29). Mr. Krempien testified that, “I sent him an e-mail on November the 7th and referred him back to my e-mail from October the 31st in which I had advised him that should I not receive his full written response, as he indicated that he wished to provide, that I may just conclude my investigation and move on to the next step.”
- [48] Mr. Krempien telephoned Dr. Zapf and arranged to meet him on November 8, 2018 at approximately 8:30 a.m. at the Starbucks in Marda Loop (Tab 30).
- [49] On November 8, 2018 Dr. Zapf emailed Mr. Krempien asking to change the meeting location to his work location as he got called into work. Mr. Krempien confirmed that he would meet him at 08:20 at his work location (Tab 32).
- [50] Mr. Krempien met with Dr. Zapf on November 8, 2018 at Shoppers Drug Mart in Marda Loop (Tab 33). Dr. Zapf provided Mr. Krempien with photos of some of the dispensed prescription vials he still had in his possession that were obtained through his use of the written prescriptions he forged and provided to pharmacies. Mr. Krempien felt that Dr. Zapf was trying to provide as full of a response as possible to Mr. Krempien by providing these photos. Mr. Krempien details that Dr. Zapf admitted to creating the forged prescriptions on ten occasions on the following dates and under the following physician names:

- a. Dr. [BF]: March 29, April 12, April 27, April 30, and May 18;
- b. Dr. [DM]: March 23;
- c. Dr. [OS]: June 20 and July 6; and
- d. Dr. [KG]: May 2 and June 6.

- [51] Dr. Zapf also admitted that for each of the above listed 10 forged prescriptions he took each to a pharmacy and had all the drugs dispensed by pharmacy staff (except for the part fill of 120 tablets of 360 on June 20, 2018 at Garneau Safeway Pharmacy.) Mr. Krempien testified that Dr. Zapf, “provided me with all of the documents, and we went through each of them one by one, and I asked him for a description of what the document was.”
- [52] Mr. Krempien testified that he was advised by Dr. Zapf that one document was “a copy of a legitimate prescription, a valid prescription, that he used as kind of his basis for creating his forged prescriptions.” Three other documents Mr. Krempien described as, “photos of the prescription templates that he created and then used for his forged prescriptions.” Two other photos included an overhead photo of ECHA for which Mr. Krempien could not recall its significance, and a photo of an Opioid Symposium where Dr. Zapf identified himself as being the only student in attendance, showing his passion for the profession. Dr. Zapf also supplied copies of some of the forged prescriptions which Mr. Krempien commented were not new information to him. Mr. Krempien also testified that he had a lengthy discussion with Dr. Zapf about how he had initially held a valid prescription for amphetamines and how he started to increase the use of these medicines over time without his physician’s knowledge or authorization. They also discussed how he had weaned himself back to his previously prescribed dose of amphetamines and he was engaging with a new family physician in Calgary. They also briefly discussed the parallel criminal matter but Dr. Zapf had no additional information to share on it at the time.
- [53] Mr. Krempien testified to a summary document he created which outlined all of the medications which Dr. Zapf admitted he forged, including a detailed list of the quantity of amphetamines dispensed in mg (Tab 34). Mr. Krempien calculated that 18,500 mg of amphetamines were dispensed in a period of approximately 105 days, which equals 176 mg per day of amphetamines available to be used. Mr. Krempien stated that Dr. Zapf suggested to him that he was using, initially upwards of 60 to 70 milligrams a day and up as high as about 90 milligrams a day. Mr. Krempien said, “That statement is contradicted by the summary chart, which shows that at least for that 105 day period of the forgeries when he was receiving the medication there was about 176 milligrams a day that were available to be consumed.” He further went on to explain that, “he was not aware of how much he was actually taking, and that has concerns in terms of a potential environment that can be created where there is a greater chance of patient harm.”
- [54] Mr. Krempien further testified that regardless of whether there were criminal charges or not, this is an issue that he would investigate. He also said that when someone is on the student register they are a regulated member of the College and they are subject to the Code of Ethics and the Standards of Practice, even though students practice under supervision.
- [55] Mr. Krempien discussed Standard of Practice 2.1(e) which specifically talks about how pharmacists have to make decisions in the best interests of their patients. Mr. Krempien said, “So in this matter I don’t think it was in the best interests of the patients that Dr. Zapf

served for him to be on a serious medication, such as amphetamines, without the proper assessment and oversight by a qualified prescriber such as a physician.” He further said that, “it appeared that he was not even aware of how much medication he was consuming” which Mr. Krempien felt was concerning and not in the best interests of his patients.

- [56] Mr. Krempien then spoke about the Code of Ethics, specifically Principle 10, guidelines 1 and 2. Mr. Krempien said that these guidelines talk about, “acting with honesty and integrity, and complying with both the letter and the spirit of the law, and having to be honest in ones dealings with a whole list of stakeholders, such as patients, other pharmacists, pharmacy technicians, the health professionals, and the College.” Mr. Krempien stated that Dr. Zapf, through these activities, “he involved a number of other unrelated or unknowing participants in his deception.” Mr. Krempien expressed further concern over records being uploaded to a central electronic health record that were not accurate, and upon which, other health care professionals relied to make clinical decisions.
- [57] Mr. Krempien testified that Dr. Zapf’s case of diversion was more sophisticated than other cases he had been involved in where pharmacists simply pilfered stock from places of employment. Mr. Krempien stated that, “start to finish prescription records were generated, ink signatures were forged, and pharmacists were duped with both the documentation of the prescription and some of the statements made” by Dr. Zapf.
- [58] Mr. Krempien testified that Section 4(1) of the *Controlled Drugs and Substances Act* (“CDSA”) is included in the Notice of Hearing because that section of the Act prohibits individuals from being in unlawful possession of medications scheduled in accordance with the CDSA. An individual cannot be in possession of amphetamines, which are listed under Schedule 1 of the CDSA, except as authorized by the Act. Mr. Krempien said that, “patients can be in possession of amphetamines if they have been legitimately prescribed and dispensed medication, pharmacists can be in possession of amphetamines while they are storing it at their pharmacy.” He further stated that, “Dr. Zapf had no legal authorization to be in possession of the scheduled medication, being amphetamines, in that he obtained them through fraudulent means.”

Cross-Examination of Mr. Krempien

- [59] Upon cross-examination Dr. Zapf asked Mr. Krempien if he knew if there was a contravention of the *Criminal Code*. Mr. Krempien said that he did not know the end result of the criminal matter and that the evidence he gathered during his investigation led him to understand there was clearly a breach of the *Criminal Code*.
- [60] Dr. Zapf asked Mr. Krempien if pharmacists were more involved on a day to day basis with the *Food and Drug Act* and that the CDSA played a more significant role in the duty of police officers. Mr. Krempien responded that he could not comment on what was more important to police officers.
- [61] Dr. Zapf then asked Mr. Krempien if he was qualified to determine if he had “contravened section 4(1) of a piece of criminal legislation?” Mr. Krempien responded that, “potentially not to a criminal standard, but to a professional standard I believe you have breached that

section of the *Controlled Drugs and Substances Act*, and I guess I believe I am qualified to determine that.”

- [62] Dr. Zapf asked Mr. Krempien if he believed the CDSA is relevant to a professional standard and whether it is reasonable to apply it in a professional standard. Mr. Krempien confirmed, “Yes.”
- [63] Dr. Zapf then proceeded to ask Mr. Krempien if there were students who were voting members of the College and if ACP Council had any students. Dr. Zapf asked Mr. Krempien how students were selected for Council to which he responded, “I am not aware.” Dr. Zapf asked Mr. Krempien if student members were able to vote on matters before Council to which Mr. Krempien replied, “I am not aware.”
- [64] Dr. Zapf then asked Mr. Krempien about the Netcare report he had provided to him and that, at the time, there was no new information in the report. Mr. Krempien responded that this was correct. Dr. Zapf asked Mr. Krempien if there was any reason for him to know at that time the information he was providing was extraneous to which Mr. Krempien confirmed that there would not be any reasons for him to know. Dr. Zapf further questioned Mr. Krempien about the differences in the type of Netcare reports that were presented to him by Mr. [REDACTED] and himself. Mr. Krempien said that there was, “no difference in applicable information between the summary report obtained from you and the detailed report obtained from Mr. [REDACTED].”
- [65] Dr. Zapf then asked Mr. Krempien if Mr. [REDACTED] had filled out a Loss Theft Report with Health Canada and had filled out the police report. Mr. Krempien confirmed that Mr. [REDACTED] had. Dr. Zapf then asked if Mr. [REDACTED] filed a complaint with the College and Mr. Krempien confirmed that he had not.
- [66] Dr. Zapf questioned Mr. Krempien about the time he visited him at the Shoppers Drug Mart Pharmacy at Marda Loop. He asked him if he was asked about the discrepancy between the 90 mg and 176mg in his summary at that time. Mr. Krempien responded that he did not ask Dr. Zapf about the discrepancy. Dr. Zapf asked him why and Mr. Krempien stated that he had not calculated it at that point.

Dr. Kevin Zapf

- [67] Dr. Zapf gave evidence on his own behalf. He provided a document which was entered as Exhibit 3. Dr. Zapf led evidence with concerns about language in the Notice of Hearing. He said that that language of “abusing amphetamines” was “misleading and inaccurate.” His alternative to the language is, “misusing pharmaceutical amphetamines.” He further explained that, “Now that is where the word pharmaceutical comes in, because amphetamine is produced in clandestine labs, methamphetamine produced in clandestine labs. I think it is important to differentiate that from amphetamine produced in factories, with standards, and that is monitored in a very kind of rigorous way, because it was just a different level of danger, and most importantly a different level than -- of supposed risk being introduced to the public, if someone was on a street drug while practicing as a

pharmacist, versus somebody being on something whose production is a little more controlled.”

- [68] The Chair asked Dr. Zapf where the term “abusing amphetamines” was in the Notice of Hearing. The Chair pointed out that the September 25, 2018 Notice of Hearing was entered as an Exhibit. Dr. Zapf said that he should have been using the most recent Notice of Hearing and that it is a “moot point.” Dr. Zapf further explained that, “In that case, the relevant part is the use of the term amphetamines, in general, throughout the Hearing, it implies the class of medication of amphetamines, which largely involves clandestine street drugs versus amphetamine, which all of the medications -- the controlled substances that I was involved in diverting belongs to.”
- [69] Dr. Zapf explained that he started pharmacy school in 2014 and provided information about the University of Alberta program moving to an entry level PharmD. He was part of the PharmD bridging program, “where after our third year of Bachelor of Science coursework enough material was added into the fourth year on top of the existing bachelor fourth year coursework to meet the accreditation standards for the PharmD.” He explained that there was some difficulty in finding rotation sites for his program and that it was in January, February, March, and April of 2018 when the PharmD rotations took place. The first one of those rotations was in the Faculty of Pharmacy and Pharmaceutical Sciences with three other students.
- [70] Dr. Zapf provided testimony during a closed portion of the hearing relating to his rotation in the Faculty of Pharmacy and Pharmaceutical Sciences. Part of his rotation involved him screening abstracts as part of a research collaboration. He disclosed personal and health information relating to a member of the Faculty. Dr. Zapf described how issues related to a member of the Faculty impacted him and the other students in his rotation. He described the environment as toxic.
- [71] Dr. Zapf expressed there was clearly a faculty unwillingness to intervene in the rotation and he was concerned about having the rotation invalidated if he raised issues. Dr. Zapf testified that, “we were so alone in that situation, and there was -- like, there was no way out.” Dr. Zapf said that, “we needed the credits for that rotation to be able to graduate, it couldn't be rescheduled to a different time slot, so the only option would be to do it -- would be to graduate a year late.” Dr. Zapf further testified that the other 3 students did not want Dr. Zapf to raise concerns. Dr. Zapf testified that he has a large student debt load and could not afford to graduate a year late.
- [72] Dr. Zapf testified that his use of amphetamines was beneficial in screening abstracts as it created a “hyper-focus kind of state.” With respect to the dosage of amphetamines he was using Dr. Zapf stated that, “I can see that I would certainly go up to -- up to 120 milligrams on occasion, and that I misrepresented that as 90 milligrams, just to lowball it a little bit, because I am under investigation by the College.”
- [73] Dr. Zapf testified this rotation moved to Lloydminster where he experienced financial hardship. He reached out to friends and family for money and used services such as Cash Money and Money Mart. He testified that there was a lack of community pharmacy rotations in the PharmD program and he did not really want to go to Lloydminster because

he did not have a vehicle and he did not really like small towns and he “was effectively isolated.” During his rotation in Lloydminster he started studying for his Pharmacy Examination Board of Canada examinations (“PEBCs”). He noted that he had not been able to study for them during his previous rotation, and was starting to worry about failing his PEBCs. He further testified that he did not taper his 90 mg dose of Adderall because, “you are going to be very sleepy if you just drop down your dose, and I could not afford to be sleepy on any level.” Dr. Zapf further testified that, “I stayed on my elevated dose of Adderall, and that carried -- so the rotation was two months, March, April, PEBC's were the end of May.”

- [74] Dr. Zapf testified that the prescriptions he forged for Ventolin, propranolol, carbamazepine, and Tecta were things he was not using.
- [75] He also testified that he “forged for a small amount of Zopiclone.” He further said, “the Zopiclone was so that I could sleep wherever I ended up.” He testified that, “I ended up in a motel, and they let me stay there for 25 bucks a night, because it was all booked up, but they let me stay in the room with blood on the wall and no lock on the door, which was just kind of an overly ridiculous situation. Then my last night there I stayed with this congregation of nuns for free. That is why I forged the Zopiclone.” Dr. Zapf said that he did not end up using the Zopiclone because he was worried it would make him too drowsy for the PEBCs, and even though the motel was scary and dirty, it was quiet enough for him to be able to get to sleep.
- [76] Dr. Zapf detailed that he forged his Grey Hound bus ticket to get out to Lloydminster, sold his fridge from the U of A residence which belonged to the residence, and sold his bed so he had to sleep on the carpeted floor in his apartment the night of his convocation.
- [77] Dr. Zapf testified that he took the multiple choice portion of his PEBCs and felt that he “did amazing” and that he “felt great.” During the Objective Structured Clinical Examination (“OSCE”) portion he testified that he was the only Alberta student there as all of the other students were from the University of Saskatchewan. He stated that, “there was me, this weird guy, who, like, where the hell did he come from.” He stated that the jacket he was wearing and tape on the jacket made it clearly discernable he was not from the U of S. This caused him to feel “isolated in that scenario from everyone else that was there.” As a result of him being far away from home and feeling like he failed the OSCE he, “continued my use and my forging.” He also stated, “I don’t really want to know what would have happened if I failed that exam.”
- [78] When Dr. Zapf found out he passed his PEBC he was “ecstatic.” He testified that he very quickly dropped down to the dose of Adderall he was on previously. He said that the discrepancy between the 90 mg he said he was taking versus the 176 mg that Mr. Krempien calculated was because he was stockpiling the Dexedrine. He could not afford Adderall anymore because he was out of money. He stated that, “The reason that I was stockpiling was because I saw it as just better to do it in Lloydminster and be able to leave that behind me.” He testified that once he decided he was moving to Calgary he wanted to “get as much as possible in Edmonton.” He went to Garneau Safeway Pharmacy where he did, “awful acts of fraud to elicit an excess of medication.” Dr. Zapf then testified that his final forgery in Calgary was for two reasons. He wanted to convert things back to Adderall as

that is what he had originally been taking. Secondly, he stated that, “looking at Dexedrine pills reminded me of just an awful time in my life.” He spoke of having to “reintegrate into the white market” and he was worried that a physician may attempt to contact the prescribers who did not authorize or write the previous prescriptions. Dr. Zapf testified that he forged for Adderall because he needed more time to “get back into the normal medical system.”

- [79] Dr. Zapf testified that he cannot prove he ended his forgeries, not because of detection, but because he no longer required them, because, “my detection coincided with my ending them.” He further testified that, “I was not happy about what I was doing, and as soon as I became a pharmacist and life would be just back to normal and just all the shit that I went through would have been worth it to pay off where I have been.”
- [80] Dr. Zapf testified that applying the Standards of Practice and the Code of Ethics to a student is not a reasonable exercising of jurisdiction.
- [81] Dr. Zapf testified that he got two calls from the EPS right after he gained licensure and that he felt “they must be on to what I had done.” He retained a “wildly expensive drug lawyer” and as a result his finances continued to deteriorate. The lawyer spoke to the police and determined there was an arrest warrant for him. He further testified that, “if I didn't retain a lawyer and turn myself in, they wouldn't have shown up in Calgary to pick me up.” His mandatory court date was January 24, 2019 and he did not attend because he was saving for a lawyer. He also said that he did not renew his pharmacy license. He further said that, “I can be quite sure that the Edmonton Police have a warrant for my arrest, and I could be reasonably sure that they are not going to execute it in Calgary for the time being, and so after this Hearing I am going to be spending a week or whatever trying to find money to get any kind of legal representation in order to face that before coming reregistered with the College.”
- [82] Dr. Zapf provided information about his choice of physicians for the forgeries. Dr. [DM] and Dr. [BF] were both physicians he had seen at the University Clinic. He testified that, “The first style of prescription that I forged was based on a prescription that I received from [DM], and it was a recreation of that prescription pad on Microsoft Word.” This was the only prescription pad replication made. He cut it out with children's scissors, which were the only pair of scissors the person he was living with in Lloydminster had. He was concerned the prescription was not cut straight and it would increase his chance of detection. He then subsequently forged under Dr. [BF] using a computer generated style of prescription. He also said, “[BF] and [DM] do not use computer generated prescriptions. [BF] uses real pad books; [DM] is a handwritten prescription pad.”
- [83] At this time Dr. Zapf said he was considering switching to use different prescribers for his forgeries. He stated that Dr. [BF] and Dr. [DM] were nice people, both liked him, and he liked them. He testified that, “if they had detected the forged prescriptions I doubted their first instinct would be just to sic the law on me.” He testified that they may “let one slide” but more than one they would not “let slide.” He was also concerned that filling prescriptions in Lloydminster with physicians in Edmonton could increase his chance of detection.

- [84] Dr. Zapf testified that he had never met Dr. [KG] or Dr. [OS] and they are both physicians in Lloydminster. He further detailed that he selected Dr. [KG] because his first name is Kevin and that Dr. [OS] is the first google search result for “Lloydminster psychiatrists.” He used a different script style because, “it would seem strange if this guy is bringing scripts from different doctors all in the same style.”
- [85] Dr. Zapf testified that he wrote for other medications such as carbamazepine, propranolol, Tecta, and Ventolin. It would not be clear to a “layperson” why this was being done but it would be clear to a pharmacist. He further testified that his use of distraction and deception was “not from a pharmacy perspective” but because his father was a stage musician and Dr. Zapf spent time in pharmacy school doing magic. He further testified that his intuitiveness and familiarity with controlled substances was because he had ADHD. He then testified that, “the idea that having a controlled substance alone on a prescription looks a little more suspicious than having a controlled substance with other non-controlled substances because who would forge for non-controlled substance.” He said that this is “not my expertise in pharmacy” that differentiates him but rather, his “knowledge that Dexedrine is controlled, while the other medications are not.”
- [86] Dr. Zapf then testified that the drugs that were chosen were because they had a personal meaning to him, they were not good selections from a pharmacist’s perspective. This was because Ventolin implies the patient has asthma, and together with Dexedrine, could trigger the pharmacist to do a CACP which is something they bill the government for and could increase the risk of detection. He further said that he chose Ventolin because, “my next door neighbor growing up, we were born eight days apart, knew him life long, had two younger brothers, and they were all on Ventolin growing up.” He then testified that carbamazepine was personally important to him because his mother used it for transverse myelitis and in grade 11 a good friend of his suffered a seizure coming back from grad camping because he stopped taking it. Dr. Zapf said they were “ones he knew about regardless of pharmacy.” He further testified that carbamazepine was also a poor choice from a pharmacist’s perspective because of the intensive monitoring required with its use.
- [87] Dr. Zapf also testified that Tecta and propranolol had personally been prescribed for him previously and that’s why he chose those two medications. He said that because Tecta can affect stomach pH it can interact with the absorption of Adderall which could lead to the pharmacist contacting the physician. He said that he “would not say Tecta is a good idea to be right alongside Adderall as a distractor” and he also said, “It wasn’t the pharmacist in me that motivated me to select drugs as a distractor, as a general strategy, or to select those in particular.”
- [88] Dr. Zapf testified that he avoided going to places where he would be “exploiting my role as a pharmacist.” He said he had no personal or professional relationships with the people at the stores he at which he forged prescriptions. He said that, “I could have, but I certainly didn’t feel comfortable abusing my position of trust as a pharmacist to go to someone I knew so that I would have that good will with them and use that to avoid, like, getting caught.”
- [89] Ms. Hale had no questions for Dr. Zapf in cross-examination.

V. CLOSING SUBMISSIONS OF THE PARTIES

Complaints Director

- [90] Ms. Hale made submissions on behalf of the Complaints Director. She clarified the Notice of Hearing against Dr. Zapf does not contain any allegation of substance abuse or substance misuse; the allegations are strictly the ten forged prescriptions. She also stated there is no allegation of patient harm. She confirmed that Mr. [REDACTED] did not file a complaint with the Alberta College of Pharmacy, but he had phoned the EPS and they, in turn, had contacted the Alberta College of Pharmacy. She said that the criminal prosecution and the regulatory proceeding arise from the same factual matrix but that they are separate processes. They are not dependent on each other and the criminal prosecution is irrelevant to the Hearing Tribunal process. She said that the criminal prosecution has a different standard, beyond a reasonable doubt, and a different process to it. The Hearing Tribunal process is about the regulation of pharmacy, the regulation of the people who practice pharmacy, pharmacy technicians, pharmacists, and regulating that practice in the public interest. The discipline procedures result in outcomes that are different than the criminal process. The objectives are deterrence to the profession, deterrence to a particular member, and public safety.
- [91] Ms. Hale stated that the Hearing Tribunal's first task is to determine whether the conduct in the Notice of Hearing occurred. She said that Mr. Krempien testified to the specific allegations of the forgeries and that Dr. Zapf, to his credit, did not dispute any of those facts. She said, "He admitted the facts, he admitted them during the investigation, he admits them verbally today, and he admits them in his written submission" and that this conclusion should be very straightforward. Ms. Hale said that the second task is to determine whether the conduct by Dr. Zapf constitutes unprofessional conduct as defined in the HPA.
- [92] Ms. Hale spoke about Dr. Zapf's questioning whether the HPA, the Standards of Practice and the Code of Ethics apply to someone registered on the student register with the College. The HPA, section 1(1)(II), states that a "regulated member" means "a person who is registered as a member under section 33(1)(a)." Section 33(1) states: "A Council (a) must establish, in accordance with the regulations, a regulated member's register for one or more categories of members who provide professional services of the regulated profession, and (b) may, in accordance with the bylaws, establish other registers for one or more categories of non-regulated members." The Pharmacists and Pharmacy Technicians Regulation establishes register categories for the purposes of section 33(1)(a) of the HPA. Section 2(d) of the Regulation establishes a student pharmacist register. Also included are the provisional pharmacist register (section 2(b)) and the clinical pharmacist register (section 2(a)). Ms. Hale also pointed to the definitions in the Standards of Practice for Pharmacists and Pharmacy Technicians where it states that a pharmacist means a clinical pharmacist, a provisional pharmacist, a courtesy pharmacist or a student pharmacist. She argued that someone registered on the clinical register, the provisional register, or the student register is not in any way excluded from the Standards of Practice of the Code of Ethics.

- [93] Ms. Hale said that in the Complaints Director's view, Dr. Zapf breached Standard 1.1 and 1.2 of the Standards of Practice as outlined in the Notice of Hearing. A regulated member must comply with the law and 1.1 lists legislation that is applicable to pharmacy which includes but is not limited to the HPA, the *Pharmacy and Drug Act*, and the CDSA. Standard 1.2 states that a registered member must comply with the law but also the spirit of the law.
- [94] Ms. Hale spoke to Standard 2.1(e) which states that a pharmacist must make decisions in the best interest of the patient. The Complaints Director was concerned about the dosage that Dr. Zapf may have been taking, and specifically not under the direction and supervision of a physician. Ms. Hale submitted that this was evidence to suggest Dr. Zapf did not have insight into his behavior and a pharmacist operating in this regard was not operating in the best interests of patients that they serve. Ms. Hale said this also pertained to Principle 1 in the Code of Conduct which states that pharmacists must act in the best interest of each patient.
- [95] Ms. Hale also spoke to Principle 10 in the Code of Ethics also outlined in the Notice of Hearing. She stated that in 10(1) a pharmacist must comply with both the letter and spirit of the law, as in Standard 1. Principle 10(2) states that a pharmacist must be honest in dealings with other pharmacists, pharmacy technicians, health professionals and the college. She said that Dr. Zapf did report to the College so the issue lies in his dealings with other pharmacies, pharmacists, pharmacy technicians and physicians who got "pulled in."
- [96] Ms. Hale said that Principles 11(4) and (5) of the Code of Ethics were breached. Principle 11(4) states that a member must promptly declare to appropriate individuals any circumstances that may call into question fitness to practice or bring the pharmacy profession into disrepute, including ill health that impairs one's ability to practice, criminal convictions and findings by other regulatory bodies or organizations. Principle 11(5) states that one must not misuse or abuse substances. Ms. Hale argued that Dr. Zapf did not self-report the conduct, he reported the criminal charges. She also said there was no evidence he considered self-reporting to the College.
- [97] Ms. Hale spoke to the alleged breaches in the HPA that were outlined in the Notice of Hearing. She cited sections 1(1)(pp)(ii) which defines unprofessional conduct as a contravention of the HPA, a code of ethics, or standards or practice. Section 1(1)(pp)(iii), applies to a contravention of another enactment that applies to the profession (in this case, the CDSA). Ms. Hale noted that section 4 of the CDSA states that one cannot possess a drug included in Schedule 1, 2 or 3 except as authorized under the CDSA. Those drugs require valid prescriptions written by a valid prescriber. Ms. Hale also cited section 1(1)(pp)(xii) of the HPA which states that unprofessional conduct includes conduct that harms the integrity of the regulated profession. She argued that the fraudulent and intentional nature of Dr. Zapf's conduct harms the integrity of the profession as a whole. Pharmacists are trusted health care providers and this activity chips away at that public perception. She further stated that, "In this case there is also the aspect of the integrity of the profession in the eyes of health professionals, the colleagues, the physicians, the technicians, whose trust and cooperation is a critical and integral part of a functioning health system." Ms. Hale said that this conduct is within the College's mandate to regulate

because the conduct is receiving professional pharmacy services and is about receiving drugs based on fraudulent prescriptions which, is not private in nature.

- [98] Ms. Hale argued that the task of determining whether these allegations are true have been satisfied through the evidence and the admissions. She said that it is also clear that it constitutes unprofessional conduct. She added that Dr. Zapf does have a very sympathetic set of facts. She conceded that the structured practical training program, as well as the PEBC and the OSCE are very stressful and that Dr. Zapf did not have the best set of circumstances. She said that these may be mitigating factors to consider upon sanction but that it does not change the fact that he forged ten prescriptions and that it constitutes unprofessional conduct.

Dr. Kevin Zapf

- [99] Dr. Zapf noted that there was no disagreement from him about the egregiousness of the behavior. He outlined four reasons that when, considered in their totality, “preclude the reasonableness of finding the conduct unprofessional and imposing sanctions, but all of them together just paint a picture of a situation where exercising jurisdiction in this way is not incorrect but it is unreasonable.” The four factors were that he was a pharmacy student at the time, there was no complaint, the concurrence of the criminal matter, and it was not a matter of practicing pharmacy when these events occurred.
- [100] Dr. Zapf said that he concedes he was a regulated member of the College at the time of the conduct but this is where it stops. He argued that exercising jurisdiction in this way over students was incorrect and unreasonable. He said that pharmacy students are not voting members of ACP and they are not empowered to make decisions about standards and bylaws, and that they were not part of the “democratic process that gave rise to this.” He further said that enforcing these against students is not a democratic thing to do. By not allowing students to vote, the College is sending the message that students are less subject to ACP regulations or are not competent enough to be making these decisions in the first place. Dr. Zapf also argued that pharmacy students are also in rough financial shape and do not have access to experts in law. He pointed out that ACP will not appoint him a lawyer if he cannot afford one and this “comes down to punishing the poor.”
- [101] Dr. Zapf argued that, “Mr. Krempien was certainly well within his legislative power to initiate the complaint in the way he initiated it.” He further stated that Mr. Krempien filing the complaint is not in the spirit of what this is about. He said that the police were not notifying ACP to complain; according to the arresting officer they were notifying them because they had to. Dr. Zapf also said that the physicians were not pressing charges. He further said, “██████████”, why did he report me to Heath Canada and to the police but not to the ACP. That sends a message he was not pressing charges, and he is a pharmacist, he knows these kinds of things, this discipline exists, he knew I was a pharmacy student.” He argued that launching a complaint by this mechanism is not particularly reasonable in this circumstance.
- [102] Dr. Zapf then spoke to his third point, the concurrence of the criminal matter. Dr. Zapf said he was compelled to provide a detailed description of his history on “these drugs” under the presumption that if he does not do it there will be sanctions against him. He said

that if each charge is tried and he is found guilty he could end up with 14 consecutive life sentences, although not likely he would receive that. He said that if someone cannot afford a lawyer and they are compelled to admit guilt beyond what the police are able to find with their own legislative authority, pursuant to a police report, there must be “something going on here”. He said that he tried to figure it out as best as he could and it is “the admissibility of statutory compelled evidence in criminal proceedings.” He further explained that he is aware that, if after the hearing, there is reasonable and probable grounds that a crime occurred, information will be sent to the Minister of Justice. Dr. Zapf summarized this argument by stating that, “On one hand to save my profession I need to be working with the Complaints Director, and on the other hand am I going to spend the rest of my life in prison.”

- [103] Dr. Zapf cited a case where a pharmacist was essentially convicted of kidnapping and sexually assaulting a minor. He said that getting into trouble with the College for this is a big issue and because this individual was a danger to the public. However, in Dr. Zapf’s case, his conduct is not relevant enough to the profession to constitute unprofessional conduct. He further explained that the “severity of what I did is just not something that fits within the jurisdiction of the ACP.” He said that he is not disagreeing with the correctness of the jurisdictional interpretation, but rather he is disagreeing with the reasonableness of it and whether there is a precedent for it. Dr. Zapf further explained that pharmacy students do not have to carry liability insurance like pharmacists and stated that, “pharmacy students are not equal to pharmacists, and it is putting them in the same ballpark in saying they are equally prosecutable is certainly with the letter of the law but it is not within the spirit of the law.”
- [104] Dr. Zapf then spoke to his fourth argument which was that his conduct was not done in the context of practicing pharmacy. He argued that he was not practicing pharmacy, was not abusing a position of authority and was not at work when the conduct occurred. Dr. Zapf further explained that, although he was a pharmacy student and the conduct involved prescriptions, it was coincidental.
- [105] Dr. Zapf then spoke to the submissions made by Ms. Hale. The first one he spoke to was that he exploited his position as a registrant to carry out his crimes. He said that everything he did was not because of the knowledge he had as a pharmacist. Dr. Zapf further explained that, “I was a bad person, I was in bad life circumstances, and that Kevin, in a bad life, needed to be a good pharmacist, because if he wasn't a good pharmacist, he had nothing.” He then spoke to the next submission that drug misuse without physician oversight created a potential for patient harm. He agreed with Mr. Krempien that in previous decisions by the College, there were cases where drug misuse by a pharmacist without physician oversight created a potential for patient harm. He took the position that there is no precedent for that view for a student. A student is always under supervision by a pharmacist which creates a safety net for the patient. He explained that, “there is an air of certainty that actual harm didn't occur” which “removes the merit of this idea of potential for patient harm” because the pharmacist is “following you around and they probably would have noticed that potential was present or actual harm was present.” He offered information that he had passed his rotations and he was being assessed at that time as someone who was not being harmful to the patients he was serving. He further stated that

he had passed his PEBC and OSCE examinations which are the ultimate test of a pharmacist's competence.

- [106] Dr. Zapf argued that, between someone being sedated versus stimulated you would want the person who is stimulated driving your car if you were in the passenger seat. He further explained that, "I am not saying amphetamine is super safe, I am not saying amphetamine makes you a more capable person, but it needs to be considered that it is not the same thing as using opioid medications, or Benzo medications, or Zopiclone, sedatives, in the context of work, which are just more clearly potential causes of patient harm because people are knocked out."
- [107] Dr. Zapf argued that he had not been charged by the foremost authority of the CDSA, which is in the realm of police. He pointed out that they did not charge him with the Dexedrine. He explained that, "for the ACP to take that as a non-complaint, treat it as a complaint, and find that I contravened it on a 50/50 burden of proof, and then sanctioned me for it, is just not a reasonable interpretation." He said that section 4(1) of the CDSA is in the offences and punishment section of the Act. He argued that ACP does not have the power to implement the punishments of that section of the CDSA and that they cannot put him in prison. He said that the people who wrote that section of the CDSA intended it to be subjected to a different burden of proof than was being applied. He further offered that even though it comes up in the HPA that this legislation pertains to the profession it does not reasonably empower the ACP to take it out of its original context "because while it is by the letter" of the HPA "it is very much absent from the letter" of the CDSA.
- [108] Dr. Zapf said that the part about creating false records is not relevant because it did not come up very much at the Hearing.
- [109] Dr. Zapf then spoke to the statements made by Mr. Krempien that he did not have insight into the amount of amphetamines he was taking. Dr. Zapf explained that this is a "philosophical notion" and that "maybe we are all crazy here, and everyone else is not real, and you are the only real one, whatever." He further argued that, "the concrete reality is that doubting the fact that I had insight into the number of pills I had in a day is a pretty absurd notion. I mean, I was very capably making these prescriptions."
- [110] Dr. Zapf argued that, although he is more responsible because he is a pharmacy student, forging prescriptions does not make him guilty of improper provision of pharmacy services by the pharmacist who is accepting the prescriptions. He said "there is a jump in logic there" and that finding him guilty of improper provision of services based on the fraud he put forward is not a reasonable connection to make.

Reply Submissions of the Complaints Director

- [111] Ms. Hale said that Dr. Zapf is correct in that the College has no authority to prosecute him for offences under the CDSA and that whether or not he was charged does not affect this matter. She said that if the Tribunal makes a finding that there was a breach of section 4 of the CDSA, the Tribunal is making its finding under the HPA. He cannot be sent to jail for such a finding by the Tribunal. Ms. Hale said that "the intent of the *Controlled Drugs*

and Substances Act is to set out a framework for the distribution and control of drugs in Canada within parliament's authority. That is integrated with the provincial *Pharmacy and Drug Act*, the drug schedules there. So to suggest it is somehow not relevant to the regulation of drugs and pharmacy in Alberta I think is incorrect.”

- [112] Ms. Hale noted concerns about Dr. Zapf’s arguments, in terms of the arguments he is responding to. She said there are no allegations of unskilled practice, no allegations of patient harm, and no allegation that he improperly provided any kind of pharmacy service in the Notice of Hearing. She said that, in the Complaints Director’s view, consuming prescription drugs that are not properly prescribed creates an environment that is not in the best interests of the patient.
- [113] Ms. Hale argued the nexus of the conduct is not incidental and strikes at the integrity of the profession. She said that conduct occurred in the context of a health service (pharmacy) and the provision of drugs. She noted the conduct is not within a gray area outside the profession. Generating fraudulent prescriptions is problematic to the College.
- [114] Ms. Hale spoke to the issue of decisions on the website involving students. She said there has not always been a student register but there are conduct decisions involving provisional members or “interns.” She agreed that it would not be fair to bring a student in front of a Hearing Tribunal because they did not provide services to the same level of a clinical pharmacist. However, this is not the case for fraudulent conduct. She argued that there is no circumstance, for student or clinical pharmacist, where fraudulent activity is permitted.

VI. FINDINGS

- [115] After considering the testimony of the witnesses, the Exhibits entered at the hearing, and the submissions of the parties, the Hearing Tribunal finds that Allegations 1(a) to (e), 2, 3(a) and (b) and 4(a) and (b) in the Notice of Hearing are proven, on a balance of probabilities, and that the conduct in each of the Allegations constitutes unprofessional conduct.

VII. REASONS

- [116] Based upon the evidence of Mr. Krempien and Dr. Zapf, and the Exhibits entered at the hearing, it is clear to the Hearing Tribunal that Dr. Zapf forged all of the 10 prescriptions outlined in the Notice of Hearing.
- [117] Mr. Krempien provided extensive evidence of how he determined the fraudulent prescriptions and offered evidence in the form of confirmation from prescribers that the prescriptions were forged. Mr. Krempien entered into evidence copies of the forgeries from the pharmacies where the prescriptions were filled, detailed information from Dr. Zapf’s own admissions in his conversations with him about the forged prescriptions, and electronic health records confirming medication dispenses that corresponded with the forged prescriptions.

- [118] Dr. Zapf provided information to the Hearing Tribunal about how and why he had done the things he had. This included various sets of personal circumstances that led to his use of amphetamines (Dexedrine, Adderall and Vyvanse) outside of what his physician had prescribed for him. Dr. Zapf included specific and extensive information including, but not limited to, why certain drugs were chosen as “distractors” on his forgeries, why certain amphetamines were chosen at certain times, and why specific physicians were chosen for his forgeries. Information provided also included photos showing how he used Microsoft Word as a tool in the commission of his forgeries.
- [119] The Hearing Tribunal finds that the Allegations in the Notice of Hearing are proven. The Hearing Tribunal finds that Dr. Zapf forged prescriptions and fraudulently obtained drugs based on those prescriptions for each of the drugs listed in Allegations 1(a) to (e), 2, 3(a) and (b) and 4(a) and (b).
- [120] The Hearing Tribunal must then consider whether the proven conduct constitutes unprofessional conduct. The Hearing Tribunal finds that the proven conduct in Allegations 1 to 4 is unprofessional conduct pursuant to section 1(1)(pp) of the HPA, as follows:
- (ii) contravention of this Act, a code of ethics or standards of practice;
 - (iii) contravention of another enactment that applies to the profession;
 - (xii) conduct that harms the integrity of the regulated profession.
- [121] The Hearing Tribunal does not accept Dr. Zapf’s arguments that he should not be found guilty of unprofessional conduct because:
- a. he was a pharmacy student;
 - b. there was no complaint;
 - c. there is already a criminal matter before the courts; and
 - d. he was not practicing pharmacy at the time.
- [122] Pharmacy students are clearly regulated members of the College. The definition of a regulated member under the HPA at section 1(1)(ll), section 33(1)(a) of the HPA and section 2(d) of the Pharmacists and Pharmacy Technicians Profession Regulations (in particular 2(d)) are clear in this regard. The laws, Standards of Practice and Code of Ethics apply to individuals on the student pharmacists register.
- [123] The fact that Mr. [REDACTED] or the physicians did not launch an official complaint with the College is irrelevant. Mr. Krempien has the authority to treat information as a complaint (HPA, section 56) based upon information that he has obtained, and in this case it was from the EPS.
- [124] The criminal matter is a separate issue that Dr. Zapf has to attend to and has no bearing on the outcome of the hearing held under the authority of the HPA. The Tribunal accepts Ms.

Hale's arguments with respect to the relevant portions of the CDSA and their applicability in this case.

- [125] Further, although Dr. Zapf was not working providing clinical services when the forgeries occurred, the Tribunal feels that is not the point. Dr. Zapf was a pharmacy student and had clearly identified himself as such to Mr. [REDACTED] in the course of filling a forged prescription. The knowledge and experience he gained being a pharmacy student made it easier for him to understand pharmacy and physician processes which he exploited in making and filling forged prescriptions. To say they are purely a coincidence is not plausible to the Tribunal. He was a regulated member of the College who was forging prescriptions (including for amphetamines). It is clearly within the purview of the College to regulate this type of conduct.
- [126] The Hearing Tribunal finds that Dr. Zapf's conduct constitutes unprofessional conduct as defined in s. 1(1)(pp) of the HPA, and breaches the provisions referred to in the Notice of Hearing. Although the Hearing Tribunal is sympathetic to Dr. Zapf's various sets of personal circumstances, it does not diminish from the fact that the forging offences occurred by Dr. Zapf and that forging prescriptions constitutes unprofessional conduct. Dr. Zapf clearly breached the statutory and regulatory obligations of a regulated member. The Hearing Tribunal further finds that Dr. Zapf's conduct undermined the integrity of the profession, decreased the public's trust in the profession, and that Dr. Zapf failed to exercise the professional and ethical judgment expected and required of a regulated member.
- [127] As laid out in the Notice of Hearing, the Hearing Tribunal found that Dr. Zapf contravened 1.1 and 1.2 of the Standards of Practice, which state:
- 1.1 Pharmacists and pharmacy technicians must practice in accordance with the law that governs each of their practices, including but not limited to:
 - a) The *Health Professions Act*, its regulations, these standards;
 - b) The *Pharmacy and Drug Act*, its regulations, and the Standards for the Operation of Licensed Pharmacies;
 - c) the Code of Ethics;
 - d) section 7.1 of the *Government Organization Act*;
 - e) the *Food and Drugs Act* and its regulations;
 - f) the *Controlled Drugs and Substances Act*, and its regulations, including the Narcotic Control Regulations; and
 - g) the *Health Information Act* and its regulations.
 - 1.2 In approaching the law that governs their practices, pharmacists and pharmacy technicians must comply with its letter and its spirit to ensure that the public and each patient receive the full protection of the law.

- [128] Closely related to this, which Dr. Zapf also contravened, are Principle 10(1) and 10(2) in the Code of Ethics, which state:
- (1) Comply with both the letter and the spirit of the law that governs the practice of pharmacy and the operation of pharmacies.
 - (2) Am honest in dealings with:
 - patients;
 - other pharmacists, pharmacy technicians, health professions and the College; and
 - contractors, suppliers and any others encountered in business dealings related to the practice of my profession or the operation of a pharmacy.
- [129] Both the Standards of Practice and Code of Ethics are clear that they apply to regulated members, including individuals on the student pharmacist registers and the provisional pharmacist register.
- [130] Dr. Zapf, through his conduct, was clearly not in compliance with the letter or spirit of the law and the applicable legislation to pharmacy, including the HPA and the CDSA. Dr. Zapf was not honest in his dealings with other pharmacists, pharmacy technicians, the College, and physicians because he forged ten prescriptions to obtain prescription medication, most notably amphetamines.
- [131] Principle 1(1) of the Code of Ethics provides that the regulated member shall: “act in the best interest of each patient.” Principle 11(5) of the Code of Ethics states that a regulated member does not “misuse or abuse substances.” Principle 2.1(e) of the Standards of Practice states that a pharmacist must “make decisions in the best interest of the patient.” The Hearing Tribunal finds that Dr. Zapf violated all three of these requirements. The Hearing Tribunal agrees with the Complaints Director that the forging of prescription drugs (and using such drugs not under the authority or authorization of a physician) is not in the best interests of patients.
- [132] The Hearing Tribunal had serious concerns that Dr. Zapf did not have insight into the amount of amphetamines he was using. The Hearing Tribunal is also very concerned about several points Dr. Zapf made about his use of amphetamines. His comparison of practicing pharmacy to being a passenger in a car (the patient) and asking if you would rather have the driver (the pharmacist) on amphetamines or a drug like fentanyl, which makes you drowsy, is shocking. He also said that he had passed his rotations, as well as the PEBC and the OSCE exams, while misusing amphetamines. He suggested this is proof he was competent during this time and the fact he was competent mitigates the concerns of the Complaints Director about potential for patient harm. He explained in his arguments that the Complaints Director’s concern about his lack of insight into how much amphetamines he was taking was “an absurd notion.” He then said that during this time he was “very capably making these prescriptions.” The Hearing Tribunal finds his argument that he was competent because he was essentially doing a good job forging prescriptions to be egregious.

- [133] The Hearing Tribunal is deeply concerned that Dr. Zapf is missing the point of the concerns laid out by the Complaints Director in regards to the potential for patient harm, and the fact that Dr. Zapf does not feel that he could put patients in harm's way by misusing amphetamines is, quite frankly, alarming. Dr. Zapf's argument that he was under direct supervision of a pharmacist while misusing amphetamines so there was a "safety net" to patients is not accepted by the Hearing Tribunal. By making this statement Dr. Zapf is not taking any responsibility for the role he plays in providing patient care under the supervision of another regulated member. If the Hearing Tribunal were to accept this argument, any member under direct supervision of another regulated member would never be able to be held responsible for their conduct.
- [134] The Hearing Tribunal agrees with the Complaints Director that Dr. Zapf violated Principle 11(4) of the Code of Ethics, which states:
- 11(4) Promptly declare to appropriate individuals any circumstances that may call into question my fitness to practice or bring the pharmacy profession into disrepute, including ill health and impairs my ability to practice, criminal convictions and findings by other regulatory bodies or organizations.
- [135] This speaks to the fact that Dr. Zapf did not self-report his conduct to ACP, he only reported the fact of a warrant for his arrest on criminal charges to ACP without any further details about the nature of the charge. Dr. Zapf never self-reported to the College the forgeries or that he fraudulently obtained drugs and no evidence was introduced by Dr. Zapf that he considered doing so.
- [136] The breaches of the Standards of Practice and Code of Ethics by Dr. Zapf are very serious and constitute unprofessional conduct under section 1(1)(pp)(ii) of the HPA.
- [137] Dr. Zapf's conduct also clearly contravened section 1(1)(pp)(iii) of the HPA as he contravened the CDSA, an enactment that applies to the profession of pharmacy. Section 4(1) of the CDSA is included in Part I the "Offences and Punishment" section and states that "Except as authorized under the regulations, no person shall possess a substance included in Schedule I, II, or III." Through photographs that Dr. Zapf provided of his prescriptions, evidence submitted by Mr. Krempien, and Dr. Zapf's testimony, it is clear he had Dexedrine, Adderall, and Vyvanse prescriptions filled which were not legitimate and he had those drugs in his possession. These are Schedule 1 drugs and were obtained by Dr. Zapf through forged prescriptions. It is within the purview of the Tribunal to make a finding that he violated Section 4(1) of the CDSA, and thus violated the HPA.
- [138] Dr. Zapf also contravened section 1(1)(pp)(xii) of the HPA which states that it is unprofessional conduct to engage in conduct that harms the integrity of the regulated profession. The Hearing Tribunal agrees with the Complaint Director's arguments that, because of the fraudulent and intentional nature of the conduct, in addition to Dr. Zapf being a regulated member of the profession, it harms the profession as a whole. Pharmacists are trusted health care providers in the eyes of the public and other health professionals. The Tribunal finds that to have a regulated member of the College forging prescriptions for drugs, including amphetamines, strikes at the very heart of what the

practice of pharmacy is about and speaks against the clear vision of the College which is “Healthy Albertans through excellence in pharmacy practice.”

[139] In conclusion, the Hearing Tribunal finds that the Complaint Director has proven all of the Allegations in the Notice of Hearing, on a balance of probabilities, and that Dr. Zapf is guilty of unprofessional conduct in relation to each of the Allegations. The Hearing Tribunal views the conduct as very serious. The forging of prescription drugs by a regulated member and obtaining drugs through fraudulent means are breaches that strike at the fundamental principles of the profession of pharmacy.

[140] The Hearing Tribunal will hear submissions on sanction from the parties. The Hearing Tribunal asks that the parties consult each other to determine whether submissions will be made in writing or in person, and the timing of such submissions. If the parties need further direction from the Hearing Tribunal regarding procedural matters or scheduling for the submissions on sanction, they may request such direction from the Hearing Tribunal.

Signed on behalf of the Hearing Tribunal this 10th day February 2020.

KELLY OLSTAD, CHAIR