

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

MUHAMMAD SAFIUDDEEN ALADDIN

Registration number: 14917

DECISION OF THE HEARING TRIBUNAL

December 11, 2023

I. INTRODUCTION

Proceedings on May 31, 2023

The Hearing Tribunal held a hearing into the conduct of Muhammad Safiuddeen Aladdin (“Mr. Aladdin”) which began on May 31, 2023. In attendance on behalf of the Hearing Tribunal were Rick Hackman, pharmacist and chair; Kory Sloan, pharmacist; Sarita Dighe-Bramwell, public member; and Naz Mellick, public member. Maya Gordon acted as independent counsel to the Hearing Tribunal.

The hearing began on May 31, 2023 by way of videoconference. The hearing was held under the terms of Part 4 of the *Health Professions Act*, RSA 2000, c. H-7 (“the *HPA*”).

In attendance at the hearing were Ms. Monica Tran (“Ms. Tran”) and Ms. Annabritt Chisholm (“Ms. Chisholm”), both representing the Complaints Director of the Alberta College of Pharmacy (“College”), James Krempien, Complaints Director for the College, and Mr. Aladdin.

Margaret Morley (“Ms. Morley”), Hearings Director for the College, was also present. Ms. Morley did not participate in the hearing but was available to assist in administering the virtual hearing. There was also a court reporter, Shelly Becker, who was present.

During this first day of hearing, Mr. Aladdin began by requesting an adjournment to obtain legal counsel. He requested three months’ time to retain a lawyer. He has been seeking counsel for the past few months and that is why he is seeking the three-month time period.

In response, Ms. Tran noted that the Complaints Director is prepared to move forward today but noted that the Complaints Director takes no position on Mr. Aladdin’s adjournment request.

The Hearing Tribunal caucused to consider Mr. Aladdin’s request.

Upon their return, the Hearing Tribunal granted Mr. Aladdin’s adjournment request, however the Hearing Tribunal impressed upon Mr. Aladdin that this matter was important and needed to be heard promptly, and therefore directed him to contact the Hearings Director as soon as he retained counsel, but no later than August 31, 2023 with an update.

Before concluding, the Chair confirmed that the Hearing Tribunal (as it was currently composed) was not seized with the matter, and both counsel for the Complaints Director and Mr. Aladdin confirmed that was the case.

With that, the proceedings on May 31, 2023 adjourned to a future date.

Proceedings on October 18, 2023

The Hearing re-commenced on October 18, 2023 at 9:30 am. The Hearing Tribunal is now composed of Gillian Hansen, chair and pharmacist; Kory Sloan, pharmacist; Naz Mellick, public member; and Doug Dawson, public member.

In attendance at the hearing were: James Krempien, Complaints Director for the College; Ms. Tran and Ms. Chisholm, legal counsel representing the Complaints Director of the Alberta College of Pharmacy (“College”); Ms. Morley, Hearings Director for the College; Mr. Gary Holan, counsel for Mr. Aladdin; and Mr. Aladdin.

In addition, there were two observers to the hearing and Ms. Shelley Becker, Court Reporter.

II. ALLEGATIONS

The Hearing Tribunal held a hearing to inquire into the following allegations with respect to Mr. Aladdin (“the Allegations”), as set out in the Notice of Hearing, which was entered as Exhibit 1, at Tab 1:

IT IS ALLEGED THAT, while you were a registered Alberta clinical pharmacist and employed at Shoppers Drug Mart (ACP Licensee #1958) between approximately May 2021 – August 18, 2021 and Britannia Pharmacy (ACP Licensee #3486) between approximately November 15, 2021 – October 29, 2022, you:

1. Did not maintain professional liability insurance for the period of July 1, 2021 to September 20, 2022 while you were on the clinical pharmacist register;
2. Practiced as a pharmacist without valid professional liability insurance between July 1, 2021 and September 20, 2022 during approximately 152 pharmacist shifts;
3. Administered drugs by injection over 1000 times between May 4, 2021 and September 24, 2022 without holding current first aid and CPR certification;
4. Held the authorization to administer drugs by injection between May 4, 2021 and September 24, 2022 without holding current first aid and CPR certification; and
5. Breached the professional declarations you made on or about:
 - a. June 1, 2021; and
 - b. May 31, 2022;

by not maintaining valid professional liability insurance while on the clinical pharmacist register and by not maintaining first aid and CPR certification while having the authorization to administer drugs by injection.

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; and
- d. Failed to fulfill professional and ethical obligations expected and required of an Alberta pharmacist.

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

- Standard 1 (sub-standards 1.1, 1.2, 1.7(b), 1.7(e)(i), 1.23) and 2 (sub-standard 2.1(e)) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Principles 1(1), 10(1), and 10(2) of the ACP Code of Ethics;
- Sections 13(1) and 16(5)(a) of the *Pharmacists and Pharmacy Technicians Profession Regulations*; and
- Sections 40(1)(c) and 40(1)(d) of the *Health Professions 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) and 1(1)(pp)(xii) of the *Health Professions Act*.

The hearing proceeded by way of an Admission of Unprofessional Conduct, an Agreed Statement of Facts, and a Joint Submission on Sanction.

III. PRELIMINARY MATTERS

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

There was no application to close the hearing to the public.

IV. EVIDENCE

Agreed Statement of Facts

No witnesses were called to give testimony and evidence was entered by way of an Agreed Statement of Facts, which was entered as Exhibit 1. Therefore, the allegations were not contested.

Admission of Unprofessional Conduct

In Exhibit 1, Tab 2, Mr. Aladdin has provided an Admission of Unprofessional Conduct ("the Admission"). Section 70(2) of the HPA states that it cannot be acted upon unless it is accepted in part or in whole by the Hearing Tribunal.

V. SUBMISSIONS REGARDING MERIT

Opening Statements

Ms. Tran began with the opening statement of the College. She advised that in Exhibit 1, there is the Notice of Hearing, an Admission of Unprofessional Conduct, and an Agreed Statement of Facts. There are five allegations before the Hearing Tribunal, and Ms. Tran went through each of them.

Mr. Holan did not add any additional submissions as his opening statement.

Submissions on Behalf of the Complaints Director as to Merit

In her submissions, Ms. Tran went through the Admission in detail for the Hearing Tribunal. She noted that this is a complete admission to the Allegations in the Amended Notice of Hearing. She requested that the Hearing Tribunal accept the admissions.

Ms. Tran added that, as confirmed in the Admission, Mr. Aladdin confirmed that he had received legal advice in the admission, and that if the Hearing Tribunal accepts his admission, the Hearing Tribunal may proceed to issue one or more of the orders set out in section 82(1) of the *HPA*.

Submissions on Behalf of Mr. Aladdin as to Merit

Mr. Holan noted that he had nothing to add, other than to make specific reference to the fact that Mr. Aladdin had done his best to find evidence of his insurance and CPR certifications and realized that they did not exist.

He has been completely apologetic, takes this matter very seriously, and has worked hard with the College to come to the Agreed Statement of Facts and Admissions of Unprofessional Conduct.

VI. FINDINGS REGARDING MERIT

Facts

After hearing from both parties and being given time to review the Agreed Statement of Facts, the Admission, and the documents contained in Exhibit 1, the Hearing Tribunal accepts the following facts, on a balance of probabilities, which were admitted by Mr. Aladdin:

1. At all relevant times, Mr. Muhammad Safiuddeen Aladdin (“Mr. Aladdin”) was a registered member of the Alberta College of Pharmacy on the clinical pharmacist register.

2. On November 28, 2022, the Complaints Director received an email of complaint from Ms. Arlene Raimondi, Policy Lead and Registration Officer, Alberta College of Pharmacy (the “Complainant”).
3. Based on Ms. Raimondi’s letter of complaint, the Complaints Director commenced an investigation into the conduct of Mr. Aladdin. This investigation resulted in this complaint being referred to a hearing.

Facts Relevant to the Complaint

4. On November 28, 2022, the Complaints Director had a phone conversation with Mr. Aladdin and provided him with verbal notification of the complaint.
5. On November 29, 2022, the Complaints Director wrote to Mr. Aladdin and requested that he review the Complainant’s concerns and provide a written response to the complaint. Specifically, the Complaints Director asked Mr. Aladdin to respond to the following allegations:
 - a. You breached the professional declarations that you declared on or about May 31, 2022, and by extrapolation also on June 1, 2021, in that you did not maintain valid professional liability insurance while on the clinical register and you did not maintain valid first aid and CPR certification while holding the authority to administer drugs by injection;
 - b. You were on the clinical register from on or about July 1, 2021 until on or about September 20, 2022 without valid professional liability insurance;
 - c. You held the authority to administer drugs by injection from on or about May 4, 2021 to September 24, 2022 without valid first aid and CPR certification;
 - d. You may have practiced as a pharmacist without valid professional liability insurance from on or about July 1, 2021 until on or about September 20, 2022; and
 - e. You may have administered drugs by injection from on or about May 4, 2021 to September 24, 2022 without valid first aid and CPR certification.
6. On January 9, 2023, the Complaints Director received Mr. Aladdin’s written response to the Complaint. In his written response, Mr. Aladdin stated he would not have knowingly declared false professional declarations. He indicated he was unable to provide a copy of his previous Professional Liability Insurance (PLI) policies and First Aid/CPR (FA/CPR) certificates but that he did maintain PLI throughout the PLI lapse period and that his former Shoppers Drug Mart employer, Patrick Thomson, had renewed it.
7. On January 9, 2023, the Complaints Director phoned Marsh Insurance in Toronto and was advised that Marsh Insurance had most recently provided Mr. Aladdin with PU that was in effect from June 1, 2021 to July 1, 2021, and there had been no PUT since July 1, 2021. The Complaints Director then emailed Marsh Insurance in Toronto and requested that they provide him with written confirmation that Mr. Aladdin’s PLI would have been in effect from July 1, 2021 to September 20, 2022.

8. On January 10 and 11, 2023, the Complaints Director and Shazia Batool of Marsh Insurance in Toronto exchanged emails through which the Complaints Director was advised that:
 - a. Marsh Insurance had not provided Mr. Aladdin with any PLI that would have been in effect from July 1, 2021 to September 20, 2022;
 - b. Mr. Aladdin submitted an application on May 31, 2021 and secured PU coverage effective June 1, 2021 to July 1, 2021;
 - c. Mr. Aladdin was emailed a PLI renewal application on June 7, 2021, and reminders were emailed to him again on June 19 and 28, 2021; and
 - d. Mr. Aladdin was emailed a PLI lapse notice on July 7, 2021.

9. As part of his investigation, the Complaints Director reviewed a sample of recent ACP communications regarding notices and reminders for pharmacists to obtain professional liability insurance. Specifically, the Complaints Director noted that the following documents had been previously communicated to ACP pharmacists during the relevant time period:
 - a. the February 1, 2017 The Link edition included the article: *Are your professional declarations up-to-date*, which reminded pharmacists of the requirement for professional liability insurance. This article had an embedded link to the *Guidelines for audits of professional declarations* section on the ACP website;
 - b. the October 17, 2018 The Link edition included the article: *Falling to fulfill professional declarations and not carrying current liability insurance can be a costly mistake*, which notified pharmacists about a recent hearing tribunal decision involving a pharmacist who was found to have failed to renew his professional liability insurance;
 - c. the September 18, 2019 The Link edition included the article: *Professional declarations must be fulfilled*, which notified pharmacists about three of five recent hearing tribunal decisions involving pharmacists who were found to have failed to renew their professional liability insurance;
 - d. the October 30, 2019 The Link edition included the article: *Reminder: professional declarations must be fulfilled*, which notified pharmacists about two of five recent hearing tribunal decisions involving pharmacists who were found to have failed to renew their professional liability insurance;
 - e. the November 12, 2020 The Link edition included the article: *Personal liability insurance is a must*, which notified pharmacists about two recent hearing tribunal decisions involving pharmacists who were found to have failed to renew their professional liability insurance;
 - f. the May 26, 2021 The Link edition included the article: *Professional liability insurance is a must for all regulated members*, which reminded pharmacists of the requirement for professional liability insurance;

- g. the July 7, 2021 The Link edition included the article: *Keep track of your professional liability insurance policy effective dates*, which notified pharmacists about a recent hearing tribunal decision involving a pharmacist who was found to have failed to renew his professional liability insurance;
 - h. the January 12, 2022 The Link edition included the article: *Professional liability Insurance (PLI) is a must*, which notified pharmacists and pharmacy technicians about a pharmacy technician who failed to fulfill her professional responsibilities to renew her professional liability insurance;
 - i. the June 15, 2022 The Link edition included the article: *Professional declarations: confirm before you click*, which notified regulated members about a pharmacist's failure to renew his professional liability insurance; and
 - j. information through the Alberta College of Pharmacy's website in the *Registration & licensure/Pharmacists* section, under the "Professional declaration audit — pharmacists" webpage.
10. As part of his investigation, the Complaints Director reviewed a sample of recent ACP communications regarding notices and reminders for pharmacists of FA/CPR requirements. Specifically, the Complaints Director noted that the following documents had been previously communicated to ACP pharmacists:
- a. the October 21, 2014 The Link edition, including the article: *Reminder: up-to-date CPR and first aid must for injections*, reminding pharmacists of the FA/CPR requirements;
 - b. the September 22, 2015 The Link edition, including the article: *Audit of professional declarations*, reminding pharmacists of the FA/CPR requirements;
 - c. the February 1, 2017 The Link edition, including the article: *Are your professional declarations up-to-date?*, reminding pharmacists of the FA/CPR requirements;
 - d. the April 1, 2020 The Link edition, including the article: *CPR and FirstAid providers postponing in-person classes due to COVID-19*, reminding pharmacists of the FA/CPR requirements;
 - e. information through the ACP website in the *Competence* section, under the "Authorization to inject" webpage; and
 - f. information through the ACP website in the *Registration & licensure/Pharmacists* section, under the "Professional declaration audit – pharmacists" webpage.
11. On January 17, 2023, the Complaints Director met with Mr. Aladdin. During their meeting, Mr. Aladdin:
- a. admitted that he could not provide a copy of any PLI coverage that would have been in effect from July 1, 2021 to September 20, 2022;
 - b. admitted that he could not provide a copy of any FA/CPR certificate that would have been current from May 4, 2021 to September 24, 2022;

- c. suggested that he thought Patrick Thomson at Shoppers Drug Mart had renewed his PU through Marsh Insurance in Toronto for July 1, 2021 to June 30, 2022, but admitted that he was aware that Marsh Insurance records indicate that he had no PU coverage beyond July 1, 2021;
- d. admitted that it is likely that he did not renew, and did not have, PLI coverage from July 1, 2022 to September 20, 2022;
- e. suggested that he renewed his FA/CPR certification in April 2021 with Life Savers Canada (USC), but admitted that when he contacted LSC, there was no record of him completing any FA/CPR training in 2021;
- f. indicated that he practiced as a pharmacist at Shoppers Drug Mart #345 and Britannia Pharmacy on approximately 152 shifts from July 1, 2021 to September 20, 2022; and
- g. indicated that between the injections he administered at Shoppers Drug Mart #345 and Britannia Pharmacy during the period of the alleged FA/CPR lapse, it was likely up to a total of 1645 injections.

Facts Relevant to Sanctions

- 12. Mr. Aladdin has been registered with the Alberta College of Pharmacy on the clinical pharmacist register since April 6, 2018.
- 13. There have been no prior findings of unprofessional conduct against Mr. Aladdin.
- 14. The Complaints Director is not aware of any member of the public being impacted by Mr. Aladdin's conduct in this matter.

Acknowledge of Right to Legal Advice

- 15. Mr. Aladdin acknowledges that he has received legal advice prior to entering this Agreed Statement of Facts and that he understands that the Hearing Tribunal may use this Agreement Statement of Facts as proof of the allegations set out in the Notice of Hearing and in considering appropriate sanctions.

Unprofessional Conduct

The Hearing Tribunal found the allegations in the Notice of Hearing were factually proven and accepted Mr. Aladdin's admission that his conduct amounted to unprofessional conduct as defined in s. 1(1)(pp) of the *HPA*.

The Agreed Statement of Facts and attached exhibits clearly established that Mr. Aladdin practiced without valid PLI between July 2021 and September 2022, in breach of the professional declarations he made to the College throughout that period stating he was in possession of valid PLI. The Agreed Statement of Facts and attached exhibits also clearly established that Mr. Aladdin held the authorization to administer drugs by injection between May 2021 and September 2022 without holding current first aid and CPR certification; again, in breach of the professional declarations he made to the College throughout that period stating he was in possession of valid first aid and CPR certification.

In his signed Admission of Unprofessional Conduct, Mr. Aladdin agreed and acknowledged that his conduct in these matters:

- Breached your statutory and regulatory obligations to the Alberta College of Pharmacy as an Alberta pharmacist;
- Undermined the integrity of the profession;
- Decreased the public's trust in the profession; and
- Failed to fulfill professional and ethical obligations expected and required of an Alberta pharmacist.

In addition, the Hearing Tribunal agreed with both parties that that the conduct constitutes breaches of the following statutes and standards governing the profession of pharmacy, which were expressly acknowledged as breached by Mr. Aladdin in his signed Admission of Unprofessional Conduct:

- Standard 1 (sub-standards 1.1, 1.2, 1.7(b), 1.7(e)(i), 1.23) and 2 (sub-standard 2.1(e)) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Principles 1(1), 10(1), and 10(2) of the ACP Code of Ethics;
- Sections 13(1) and 16(5)(a) of the *Pharmacists and Pharmacy Technicians Profession Regulations*; and
- Sections 40(1)(c) and 40(1)(d) of the *Health Professions Act*.

The Hearing Tribunal concluded Mr. Aladdin's failure to maintain PLI, first aid, and CPR certification over the course of multiple years constituted a breach of sub-Standards 1.1 and 1.2 of the Standards of Practice, and sub-principle 10(1) of the Code of Ethics, which require pharmacists to practice in accordance with the letter and spirit of the law that governs their practice. Pharmacists are required by law to maintain PLI and are required to provide proof (typically in the form of a self-declaration provided to the College) that they have valid PLI in place when they apply to renew their practice permit each year. It is an expectation that when a pharmacist tells the College they are in possession of PLI, they are. Inaccurate declarations, regardless of whether they are deliberate, have the potential to harm the public and are taken very seriously.

The Hearing Tribunal found Mr. Aladdin's conduct contravened sub-principle 1(1) of the Code of Ethics, which requires pharmacists to act in the best interest of each patient. While the College takes steps to remind its members of their obligations, it is ultimately the responsibility of individual pharmacists to ensure they have valid PLI and certifications at all times. Patients are protected when pharmacists fulfill this obligation.

The Hearing Tribunal found Mr. Aladdin's conduct contravened sub-principle 10(2) of the Code of Ethics, which requires pharmacists to be honest in their dealings. It is a fundamental expectation, when a pharmacist completes their professional declarations, that the statements declared can be counted on to be true. False declarations, due to errors in judgement, lack of attention, or any other reason – deliberate or not, have the capacity to harm the public and are therefore taken very seriously. Although Mr. Aladdin did include responses as to why his insurance, first aid, and CPR certification had lapsed, the Hearing Tribunal found that his explanation contradicted itself in a number of locations. The Hearing Tribunal specifically noted that in Exhibit 1, Tab 2, Mr. Aladdin specifically admitted that he had breached Principle 10(2) and that he had not been “honest in his dealings with the College” (Exhibit 1, Tab 2, p. 8).

As such, the Hearing Tribunal found that Mr. Aladdin is guilty of unprofessional conduct as his conduct demonstrated a lack of knowledge, skill, and judgment in the provision of professional services, it was a contravention of the codes and standards applicable to his profession and it undermined the integrity of the profession.

VII. SUBMISSIONS ON SANCTIONS

Submissions on Behalf of the Complaints Director as to Sanction

As an initial matter, the parties submitted a document entitled “Joint Submission on Sanction” as Exhibit 2. The Hearing Tribunal admitted that document as Exhibit 2, and it was reviewed by the Hearing Tribunal after submission.

At that time, Ms. Tran went through the joint submission on sanction, which included the following proposals:

1. Mr. Aladdin shall receive a reprimand, which the Hearing Tribunal's written decision shall serve as.
2. Mr. Aladdin shall pay a fine of \$2,000. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The fine shall be paid within 24 months of the date Mr. Aladdin receives a copy of the Hearing Tribunal's written decision.
3. Mr. Aladdin shall be responsible for payment of the costs of the investigation and hearing to a maximum of \$2,000. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The costs shall be paid within 24 months of the date Mr. Aladdin receives a copy of the Hearing Tribunal's written decision.

Ms. Tran went over the sentencing principles applicable to this case. She pointed to a text on the Regulation of Professions in Canada (excerpt included in Exhibit 2) on the four purposes of sanctions:

- i. Protection of public;
- ii. Maintaining the integrity of the profession;
- iii. Fairness to the member; and
- iv. Deterrence.

In addition, she provided the *Jaswal* factors, which comes from the case of *Jaswal v. Medical Board of Newfoundland* (1996) 42 Admin L.R. (2d) 233 (Nfld. T.D.) which can assist a Hearing Tribunal in assessing a sanction in each particular case.

In this case, she made the following submissions on each of the *Jaswal* factors:

1. **The nature and gravity of the proven allegations:** Mr. Aladdin's admitted conduct is conduct that placed the public at risk and was found serious enough to constitute unprofessional conduct. However, this is on the lower end of the spectrum of unprofessional conduct.
2. **Age and experience of the offending member:** Mr. Aladdin has been consistently registered since 2018. He was a relatively new pharmacist in Alberta at the relevant time. However, there were numerous instances and issues, and the requirement should have been brought to his attention. His relatively short tenure should not have excused his conduct.
3. **Previous character of the member (presence or absence of any prior complaints or convictions):** There are no other findings or complaints against Mr. Aladdin.
4. **Age and mental condition of the offended patient:** Not relevant.
5. **The number of times the offence was proven to have occurred:** There were two false declarations made, and during 152 pharmacist shifts he did not have the liability insurance. He administered over 1000 injections without the appropriate CPR certification.
6. **Role of the factor in acknowledging what had occurred:** When it was brought to his attention, he did get the liability insurance and got the CPR certifications. He acknowledged and admitted his conduct both to the Complaints Director and to the Hearing Tribunal, as set out in Exhibit 1.
7. **Whether member has suffered financial or other serious penalties:** There were no submissions made to the Hearing Tribunal on this point.
8. **Impact on offended patient:** Not relevant.
9. **The presence or absence of any mitigating circumstances:** As already noted, Mr. Aladdin has admitted and acknowledged his unprofessional conduct, which was appropriate accountability on his part.
10. **The need to promote specific and general deterrence and, thereby, to protect the public and ensure the safe and proper practice of medicine:** In short, the sanctions should ensure that Mr. Aladdin does not repeat this conduct and should ensure that other members of the profession do not engage in the same conduct. Self-regulating professions require their members to understand and comply with

their insurance and regulatory requirements. The deterrent effect of these sanctions will remind members of the importance of upholding these requirements and will also ensure Mr. Aladdin does not repeat this conduct.

11. **Need to maintain the public confidence and integrity of the profession:** It is important to ensure that the public knows that the profession takes this conduct seriously, and that there will be consequences for failing to comply.
12. **Degree to which the conduct falls outside the range of permitted conduct:** As noted above, this conduct is on the lower end of the spectrum.
13. **Range of sentences in other similar cases:** The Joint Exhibit Book on Sanction included two cases with similar complaints where the sanctions are comparable to the ones being proposed here, allowing for some differences in the facts.
 - a. In the case of Curtis Crough, dated October 11, 2016, he injected multiple patients over multiple years without having the appropriate certifications required. He received a written reprimand, a fine of \$4,000.00 total (two \$2,000.00 fines), costs, and a prohibition on further injections provided at his pharmacy. Mr. Aladdin was authorized to provide drugs by injection, unlike Mr. Crough.
 - b. In the case of Hugo Leung, dated May 31, 2021, he was found to have failed to have professional liability insurance over a longer duration than Mr. Aladdin, and swore three false declarations. He was subject to a reprimand, a fine of \$1,000.00, and costs of \$7,000.00.

In this case, on the matter of costs, the Complaints Director is seeking \$2,000.00 in costs. The recent ABCA case of *Jinnah v. Alberta Dental Association and College*, 2022 ABCA 336 (“*Jinnah*”). Ms. Tran noted that *Jinnah* made a finding that costs are not automatic, and if applied, should not be formulaic. The parties did agree that the member should pay some costs, but the parties agreed to ensure the costs are on the lower part of the scale.

Ms. Tran then advised that when it comes to joint submissions on sanction, the Supreme Court of Canada’s decision in *R. v. Anthony Cook*, 2016 SCC 43 (“*Anthony-Cook*”), where the Court confirmed that the correct test “is whether the proposed sentence would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.” If neither of those tests are met, the Hearing Tribunal must exercise a very high level of deference to the joint submission of the parties.

If the Hearing Tribunal wishes to alter the joint submission on sanction in any way, the *Timothy Edward Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 case suggests that the Hearing Tribunal would be required to come back to the parties with the proposed alteration, to allow both parties to make submissions on it, prior to making such an order.

To conclude, in the submission of the Complaints Director, the proposed sanction meets the four purposes of sentencing, and it also meets the public interest test. The sanctions are serious enough to create deterrence, to protect the public, and to maintain the integrity of the profession, going forward.

Submissions on Behalf of Mr. Aladdin as to Sanction

Mr. Holan was provided with an opportunity to respond, and simply noted that he agreed with Ms. Tran's submissions.

Inquiries from the Hearing Tribunal

After reviewing the submissions on the Joint Sanction, the Hearing Tribunal noted that the decision of *Jinnah* changed the law, and created a general presumption that costs should be borne by the College in most cases, except if it falls under one of the four headings provided for by the Court of Appeal.

The Court of Appeal wrote in *Jinnah* that professions should bear most, if not all costs associated with the privilege and responsibility of self-regulation unless:

1. A member has committed serious unprofessional conduct,
2. Is a serial offender,
3. Has failed to cooperate with investigators, or
4. Has engaged in hearing misconduct.

The Hearing Tribunal asked the parties for submissions on which heading the parties felt was applicable in this case, to justify the issuance of costs in this case. The Hearing Tribunal was also interested in how the \$2,000 value of costs was arrived upon.

Ms. Tran provided her submissions after an adjournment. She brought the Hearing Tribunal's attention to para. 138 of *Jinnah*. Citing the text of that paragraph, she noted that *Jinnah* provides a "general principle" on costs which suggests that there would be exceptions. In this case, she submitted that the exception would be when the parties had reached a Joint Submission on Sanction, and unless the submission is contrary to the public interest test set out in *Anthony-Cook*, it should be respected.

She added that there were a number of factors that went into the negotiations with this proposed cost order. The costs being proposed are roughly 10-15% of the total costs of the investigation and hearing of this matter, so they are not full indemnification and in fact are on the low end of indemnification for the College. She noted that the costs award aligns with past decisions similar to this, but that this proposal is lower than previous requests.

Mr. Holan was provided with an opportunity to make submissions as well. He noted that he was not instructed to make submissions on this matter, and that Mr. Aladdin would abide by any order made by the Hearing Tribunal. Mr. Aladdin desires to put this matter behind him; he wants cost certainty and a payment plan going forward, and having this joint submission allowed him to get that certainty.

After an adjournment, the Complaints Director made it clear that some of the submissions made between the parties were without prejudice and should be disregarded by the Hearing Tribunal in its consideration of the Joint Submission on Sanction. The Hearing Tribunal has accordingly disregarded those submissions.

VIII. ORDERS

Order of the Hearing Tribunal

After a consideration of the joint submission on sanction, the Hearing Tribunal orders the following, in accordance with the joint submission:

1. Mr. Aladdin shall receive a reprimand, which the Hearing Tribunal's written decision shall serve as.
2. Mr. Aladdin shall pay a fine of \$2,000. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The fine shall be paid within 24 months of the date Mr. Aladdin receives a copy of the Hearing Tribunal's written decision.
3. Mr. Aladdin shall be responsible for payment of the costs of the investigation and hearing to a maximum of \$2,000. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The costs shall be paid within 24 months of the date Mr. Aladdin receives a copy of the Hearing Tribunal's written decision.

Reasoning of the Hearing Tribunal

The Hearing Tribunal acknowledge it should defer to the Joint Submission of Sanction unless it believed the proposed sanctions would bring the administration of justice into disrepute or would otherwise be contrary to public interest.

It is the opinion of Hearing Tribunal that this sanction is fair and appropriate in the circumstances. It protects the public, maintains the integrity of the profession, and is also a sanction which is fair to Mr. Aladdin. It was developed, ultimately, with his agreement, and he has confirmed that he also feels it is fair to him. Finally, this sanction establishes both general and specific deterrence. The College did take this conduct, although on the lower end of the spectrum of seriousness, seriously, engaging in a full investigation and hearing into this matter, and seeking appropriate sanctions against Mr. Aladdin. It also specifically deters Mr. Aladdin, as given his involvement in the investigation and hearing of this matter.

In addition, the Hearing Tribunal has considered the factors in a *Jaswal* decision and the parties' submissions on those factors and has concluded that this is a fair and appropriate sanction in this case.

Specific Reasoning on Costs

The Hearing Tribunal wishes to make it clear that it considered the direction in *Jinnah* carefully and made efforts to ensure that the costs award in this case aligns with the principles set out in that decision.

In this case, the Hearing Tribunal acknowledged the following:

1. That the purpose of costs under the HPA is full or partial indemnification of the College in appropriate cases (*Jinnah*, para. 127). As such, the Hearing Tribunal gave thought as to whether this is an “appropriate case” to award costs.
2. Costs are not to be awarded in every case (*Jinnah*, para. 128). The Hearing Tribunal started from the proposition that costs are not to be awarded in every case and sought additional submissions from the parties as to why they should be awarded in this case, in particular.
3. A Hearing Tribunal must justify a decision to impose costs (*Jinnah*, para. 128). The Hearing Tribunal, in its deliberations and questions of the parties, gave a great deal of consideration as to whether costs are appropriate in these circumstances.
4. A Hearing Tribunal should be provided with submissions on which, if any, category that the costs award falls under (*Jinnah*, paras. 131 – 154). If not provided, the Hearing Tribunal should prompt the parties about whether in this case, any of the categories are applicable. This is important given the Court’s reasoning in *Jinnah* and the goal to create propositions that are universally applicable and easy to follow (*Jinnah*, para. 152).

In this case, the parties’ submissions were essentially that because they agreed upon costs, those costs should be respected by the Hearing Tribunal. Neither party really addressed the Hearing Tribunal’s questions as to which category of costs this case fell into pursuant to the *Jinnah* decision.

The Hearing Tribunal does not read the *Jinnah* decision as having preconditions to *any* cost award. In paragraph 138, cited by counsel for the Complaints Director, the Court makes it clear that compelling reasons need to be provided when what is being contemplated is “a significant portion of the costs of the investigation and hearing of a complaint” (para. 138). In this case, as confirmed by counsel, the costs being sought are a small percentage of the actual costs of the investigation and hearing. As such, the Hearing Tribunal retains its discretion to consider and award costs when what is being sought is not significant, as in this case.

In addition, the Court in *Jinnah* cited a previous decision of the Court of Appeal, the *K.C. v. College of Physical Therapists of Alberta*, 1999 ABCA 253 (cited at para. 129), which states that Hearing Tribunals can consider “the seriousness of the charges, the conduct of the parties and the reasonableness of the amounts”.

In this case, the Hearing Tribunal considered the fact that these charges are on the low spectrum of seriousness, Mr. Aladdin's acknowledgment of the conduct and cooperation with the investigation and hearing, and the reasonableness of the amount being sought, with a reasonable time to pay. It provides Mr. Aladdin certainty as to the amount and payment timeline. Additionally, the Joint Submission on Sanction, including the award of costs, does not contravene the public interest test set out in *Anthony-Cook*, as it does not bring the administration of justice into disrepute or is otherwise contrary to the public interest, and therefore must be afforded a high level of deference.

All these factors, alongside the agreement between the parties, persuade the Hearing Tribunal that this is an appropriate case to award costs in the amount and with the time to pay which was agreed upon by the parties.

In future hearings, even if there are joint submissions on costs, the Hearing Tribunal will require clear and persuasive submissions from the parties as to why the costs award being requested is in line with the principles set out in *Jinnah*.

Signed on behalf of the Hearing Tribunal by the Chair on the 11th day of December, 2023.

Gillian Hansen
Per: [Gillian Hansen \(Dec 11, 2023 11:28 MST\)](#)
Gillian Hansen, Chair