

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

AHMED ELFAHL

Registration number: #15263

DECISION OF THE HEARING TRIBUNAL

January 14, 2025

I. INTRODUCTION

The Hearing Tribunal of the Alberta College of Pharmacy (the “College” or “ACP”) held a hearing into the conduct of Ahmed Elfahl. In attendance on behalf of the Hearing Tribunal were Kory Sloan (pharmacist and chair), Kevin Kowalchuk (pharmacist), Andrew Otway (public member), and Dianna Jossa (public member). Kimberly Precht attended as independent legal counsel to the Hearing Tribunal.

The hearing took place virtually on November 6, 2024. The hearing was held under the terms of Part 4 of the *Health Professions Act* (“HPA”).

In attendance at the hearing were: James Krempien, Complaints Director of the College; Annabritt Chisholm, legal counsel representing the Complaints Director; Mr. Elfahl; and Billal Saleem, legal counsel representing Mr. Elfahl.

Margaret Morley, Hearings Director of the College, attended in an administrative capacity. Five members of the public attended as observers.

There were no objections to the composition of the Hearing Tribunal, the jurisdiction of the Hearing Tribunal to proceed with the hearing, or the timelines for service of the Notice of Hearing on Mr. Elfahl, and the parties did not raise any preliminary issues.

II. ALLEGATIONS

The allegations against Mr. Elfahl, as set out in the Notice of Hearing, were as follows:

IT IS ALLEGED THAT while you were a registered Alberta pharmacist (ACP Practice Permit #15263) at Emerald Downtown Pharmacy & Travel Clinic (ACP Licence #4281), you:

1. Administered Hepatitis A vaccine (Avaxim) to your patient, ■■■ on or about September 14, 2023, without shaking or otherwise mixing the prefilled syringe prior to administering the vaccine as recommended by the product monograph;
2. Administered Hepatitis A vaccine (Avaxim) to your patient, ■■■ on or about September 14, 2023, without shaking or otherwise mixing the prefilled syringe prior to administering the vaccine as recommended by the product monograph;
3. Responded to ■■■ and ■■■ concerns about your administration of the Hepatitis A vaccine (Avaxim) on or about November 21, 2023 by telling ■■■ and ■■■ to get a blood test for Hepatitis A antibodies before you would apologize or provide them any compensation.

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. Created the potential for patient harm;
- d. Decreased the public's trust in the profession; and
- e. Failed to exercise the professional and ethical judgment 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 and 1.2), Standard 7 (Sub-Standards 7.2(c) and 7.2(e)), and Standard 17 (Sub-Standard 17.2(b)) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Principles 1(1), 1(2), 1(3), 3(1), 9(3) and 10(1) of the ACP Code of Ethics; and

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)(i), 1(1)(pp)(ii), and 1(1)(pp)(xii) of the *Health Professions Act*.

At the hearing Mr. Elfahl confirmed, via his legal counsel, that he admitted allegations 1, 2 and 3, as set out above.

III. EVIDENCE

The Complaints Director and Mr. Elfahl presented the Hearing Tribunal with an Exhibit Book, which contained an Agreed Statement of Facts, setting out the information and documentation they considered relevant to the allegations against Mr. Elfahl. The Exhibit Book was entered as **Exhibit 1 (containing 6 Tabs)**, with the Agreed Statement of Facts at **Tab 3**. The Exhibit Book also included the Notice of Hearing (**Tab 1, Exhibit 1**) and Mr. Elfahl's Admission of Unprofessional Conduct (**Tab 2, Exhibit 1**).

By way of background information, the Agreed Statement of Facts provided that Mr. Elfahl was a registered member of the College on the clinical pharmacist register at Emerald Downtown Pharmacy & Travel Clinic (ACP Licence #4281) (the "Pharmacy") at all relevant times. The College received two complaints (the "Complaints") about Mr. Elfahl on January 26, 2024, from ■■■ and ■■■ regarding the conduct of Mr. Elfahl. The Agreed Statement of Facts outlined the focus of the Complaints and confirmed that they were primarily investigated by a contract investigator for the ACP, Jennifer Mosher.

The Agreed Statement of Facts included the following agreed upon facts.

On September 14, 2023, Mr. Elfahl administered a Hepatitis A vaccine (Avaxim) to ■■■ and ■■■. Before administration, ■■■ asked Mr. Elfahl if the vaccine needed to be shaken. Although he did not recall, Mr. Elfahl accepted that he may have responded by saying the vaccine was clear and had no contents that needed mixing. Although he did not recall, Mr. Elfahl accepted he may not have shaken the Hepatitis A vaccine (Avaxim) prior to administering it to ■■■ and ■■■.

According to the Agreed Statement of Facts, Mr. Elfahl's customary practice in preparing a vaccine was to consider if the vaccine required special handling or mixing by checking the instructions on the box. He would not consult the product monograph.

The instructions to shake the Hepatitis A vaccine (Avaxim) were on the product monograph, not on the box.

On November 21, 2023, ■■■ emailed Mr. Elfahl to raise concerns with how Mr. Elfahl had administered the Hepatitis A vaccine (Avaxim) to ■■■ and himself. In that email he requested a refund for the cost of the vaccines. Mr. Elfahl responded by offering ■■■ and ■■■ a serology requisition and indicated that only if ■■■ and ■■■ did not have antibodies for Hepatitis A, would he apologize or offer the requested refund. It was part of Mr. Elfahl's practice to routinely provide serology requisitions to patients to ensure appropriateness of vaccines.

Although the Agreed Statement of Facts itself was brief (13 paragraphs), it included attachments relevant to the agreed facts, including copies of the Complaints from ■■■ and ■■■ with photographs of the vaccine packaging, correspondence between the complainants and the Hepatitis A (Avaxim) vaccine manufacturer, correspondence between Mr. Elfahl and the complainants, and a copy of the Hepatitis A vaccine (Avaxim) Product Monograph.

Mr. Elfahl acknowledged in the Agreed Statement of Facts that he received legal advice before entering the Agreed Statement of Facts, and that he understood the Hearing Tribunal could use the Agreed Statement of Facts as proof of the allegations set out in the Notice of Hearing.

In the Admission of Unprofessional Conduct (**Tab 2, Exhibit 1**), Mr. Elfahl acknowledged and admitted the allegations set out in the Notice of Hearing. Mr. Elfahl also agreed and acknowledged his conduct breached his statutory and regulatory obligations to the College, undermined the integrity of the profession, decreased the public's trust in the profession, created the potential for patient harm, decreased the public's trust in the profession and was a failure to exercise the professional and ethical judgment expected and required of an Alberta pharmacist.

Mr. Elfahl further agreed and acknowledged his admitted conduct constituted unprofessional conduct under sub-sections 1(1)(pp)(i), 1(1)(pp)(ii), and 1(1)(pp)(xii) of the HPA, and breached Standard 1 (Sub-standards 1.1 and 1.2), Standard 7 (Sub-standards 7.2 (c) and 7.2 (e)) and Standard 17 (Sub-standard 17.2(b)) of the Standards of Practice for Pharmacists and Pharmacy Technicians, and Principles 1(1), 1(2), 1(3), 3(1), 9(3) and 10(1) of the College's Code of Ethics.

IV. SUBMISSIONS

In her opening statement on behalf of the Complaints Director, Ms. Chisholm provided the Hearing Tribunal with an overview of the Notice of Hearing, the Admission of Unprofessional Conduct, the Agreed Statement of Facts which, she noted, included references to supporting documents from the investigation file, and extracts of statutory authorities relied on by the Complaints Director.

Ms. Chisholm submitted that the Hearing Tribunal had a two-part task, to determine first whether the allegations were factually proven by the Complaints Director on a balance of probabilities, and second to determine whether the proven conduct was serious enough to constitute unprofessional conduct under the HPA. Ms. Chisholm submitted that should the allegations before the Hearing Tribunal be found to be proven, a third task would then be to determine appropriate sanctions.

Ms. Chisholm submitted that it was the parties' intention that the Admission of Unprofessional Conduct and the Agreed Statement of Facts should allow the Hearing Tribunal to have the necessary evidence to find that the allegations were proven and amounted to unprofessional conduct as cited in the Notice of Hearing.

Mr. Saleem then provided an opening statement on behalf of Mr. Elfahl, in which he submitted that Mr. Elfahl had admitted to unprofessional conduct, though he acknowledged that he could not recall the conversation he had with the complainants. He submitted that Mr. Elfahl outlined his general practice of vaccine administration and believed it was more probable than not that he did not shake the vaccine before administration. Mr. Elfahl acknowledged, through his counsel, that as he had likely seen thousands of patients, but the patients had only seen one pharmacist, their recollection of the procedure and conversation that followed would be better than his recollection.

Ms. Chisholm then proceeded to take the Hearing Tribunal through the Admission of Unprofessional Conduct and reiterated the facts of the Complaints, including that Mr. Elfahl, despite not having a full recollection of the events in question, believed that the evidence gathered in the investigation suggested that the facts as alleged by the complainants were more likely than not to be true. In making that statement, Mr. Elfahl accepted responsibility for his conduct as alleged in the 3 allegations in the Notice of Hearing.

In her submissions, Ms. Chisholm walked through Mr. Elfahl's customary practice with vaccine administration, according to the Agreed Statement of Facts, acknowledging that if his typical practice was to check the instructions on the outside of the box, he would not have seen the instructions on the Product Monograph, directing the administrator to shake the vaccine before administration.

Mr. Chisholm also reviewed, in relation to Allegation 3, when the complainant ■■■ emailed Mr. Elfahl to raise concerns about how Mr. Elfahl administered the vaccine to ■■■ and himself, Mr. Elfahl responded by offering ■■■ and ■■■ a serology requisition and he indicated that only if they did not have the antibodies for Hepatitis A would he apologize or offer the requested refund. Mr. Elfahl's evidence was that he would routinely provide serology requisition to patients to ensure appropriateness of a vaccine.

In responding submissions on behalf of Mr. Elfahl, Mr. Saleem clarified that Ms. Chisholm may have stated that Mr. Elfahl does not refer to product monographs. While Mr. Elfahl agreed he did not refer to a product monograph in this situation, he did not generally accept that he did not review product monographs on a regular basis. Ms. Chisholm pointed the Hearing Tribunal to paragraph 8 of the Agreed Statement of Facts which stated:

8. As part of Mr. Elfahl's customary practice in preparing a vaccine, he would consider if the vaccine requires special handling or mixing by checking the instructions on the box. He would not consult the product monograph.

After hearing from the parties, the Hearing Tribunal adjourned to review the attachments to the Agreed Statement of Facts in further detail.

The Hearing Tribunal sought clarity on the significance of the wording of paragraph 8 of the Agreed Statement of Facts. The parties agreed that they had a difference of interpretation as to paragraph 8 of the Agreed Statement of Facts. However, Ms. Chisholm confirmed that the Complaints Director did not believe a difference of opinion on this wording affected the admissions at issue in allegations 1 and 2 because Mr. Elfahl did not review the product monograph on this occasion and it was the specific allegations in this case that the facts needed to relate to, not necessarily Mr. Elfahl's customary practice. Mr. Saleem agreed with Ms. Chisholm.

The Hearing Panel adjourned again to consider the additional information.

V. FINDINGS

The Hearing Tribunal accepted Mr. Elfahl's admission, finding allegations 1, 2 and 3 in the Notice of Hearing were factually proven on a balance of probabilities and amounted to unprofessional conduct.

In determining that the allegations were proven, and that Mr. Elfahl's admissions should be accepted, the Hearing Tribunal carefully considered the Agreed Statement of Facts entered into by the parties, the Admission of Unprofessional Conduct, and the parties' submissions.

The reasons for the Hearing Tribunal's findings that the allegation in the Notice of Hearing is factually proven on a balance of probabilities and amounts to unprofessional conduct are as follows.

With regard to allegations 1 and 2, while the Agreed Statement of Facts acknowledges that Mr. Elfahl does not have a full recollection of the events of the Complaints, it is clear he acknowledges that he failed to shake or otherwise mix a prefilled syringe prior to the administration of the vaccine, contrary to the recommendation of the product monograph.

The Agreed Statement of Facts explained that Mr. Elfahl admitted it was part of his customary practice that in preparing a vaccine to consider whether it required special handling or mixing by checking the instructions on the box, and that at least in the present case it was not his practice to consult the product monograph. Attached as an Exhibit "C" to the Agreement

Statement of Facts, a photo of the box of the Hepatitis A Vaccine showed that the instructions were on the product monograph and not the box. The exhibit shows that the instructions state, in bold form, “**Shake the pre-filled syringe** well until a uniform, cloudy suspension results” (emphasis added).

The Hearing Tribunal was satisfied that Mr. Elfahl’s conduct in failing to shake or otherwise mix the prefilled syringe prior to administering the vaccine (as required by the product monograph) contravened the College’s Standards of Practice, as well as amounted to unprofessional conduct under the HPA. Mr. Elfahl admitted that he did not comply with the administration requirements under the Standards of Practice. As set out in the Standards of Practice, Sub-standards 7.2(c) and (e) “Using appropriate dispensing procedures” requires a pharmacist to ensure his or her dispensing procedure “uses the proper diluents and mixing procedures where applicable” and “complies with any requirements applicable to the specific drug or blood product”. Standard 17.2 (b) also requires that “a pharmacist who is authorized to administer drugs by injection who administers an injection to a patient must:

- b) be satisfied that the drug, blood product or vaccine to be administered:
 - i. has been prepared for administration using aseptic technique,
 - ii. is stable, and
 - iii. has been stored and labeled appropriately prior to and following reconstitution or mixing.”

Although Sub-standard 7.2 is focused on dispensing, not administration, there is no question that Mr. Elfahl had a profession obligation to review and follow the mixing instructions set out in the product monograph before administering the vaccines to ■■■ and ■■■

Additionally, Code of Ethics Principle 1.2. requires pharmacists to provide appropriate treatment and care, while Principle 1.3 requires pharmacists to actively seek out information to make informed decisions: the Hearing Tribunal considered that Mr. Elfahl should have sought information to ensure he administered the vaccine correctly and as such there was an absence of appropriate treatment and care. Although there was no evidence of harm in this case, his failure to do so could have caused patient harm. Mr. Elfahl had an obligation to review the product monograph and was responsible to administer the vaccine appropriately.

In light of this, the Hearing Tribunal was satisfied that the information included in the Agreed Statement of Facts and its attachments was consistent with Mr. Elfahl’s admission that allegations 1 and 2 were factually proven.

As for Allegation 3, Mr. Elfahl’s response to the complainants, correspondence of which was included as an exhibit to the Agreed Statement of Facts, demonstrated that Mr. Elfahl was not responsive to the complainant’s concerns, instead telling them to get a serology test before he would apologize or offer a refund.

This was contrary to various principles under the Code of Ethics; the College’s Code of Ethics Principle 1.1 requires that a pharmacist act in the best interest of each patient, Principle 1.2 requires that pharmacists provide appropriate treatment and care, and Principle 1.3 requires

pharmacists to actively seek out information to make informed decisions. Mr. Elfahl's conduct was not in these patients' best interest, and by failing to actively seek out relevant information, Mr. Elfahl failed to provide appropriate treatment.

In response to the email from complainant [REDACTED] Mr. Elfahl could and should have taken the opportunity to "actively engage each patient and work with the patient in a manner that builds a relationship and confidence in [their] professional abilities" (Code of Ethics, Principle 3.1) and to "evaluate [his] individual practice and assume responsibility for improvement" (Principle 9.3). Instead, Mr. Elfahl responded by stating he would only provide an apology or refund after a blood test was taken.

The Hearing Tribunal accepted Mr. Elfahl's admission that allegations 1, 2 and 3 are factually proven and that his conduct constituted unprofessional conduct under the HPA. His conduct fell short of the Standards of Practice for Pharmacists and Pharmacy Technicians and Code of Ethics and is conduct that harms the integrity of the pharmacy profession.

VI. SUBMISSIONS ON ORDERS

After receiving the Agreed Statement of Facts and Admission of Unprofessional Conduct, the Hearing Tribunal adjourned to deliberate. After the Hearing Tribunal deliberated, the Tribunal advised the parties it accepted the Admission of Unprofessional Conduct by Mr. Elfahl and determined the allegations were proven and constituted unprofessional conduct. The Hearing Tribunal then invited the parties to make submissions on sanctions.

The parties provided the Hearing Tribunal with a Joint Submission on Sanctions and supporting materials, which were entered as **Exhibit 2**. The Joint Submission on Sanctions stated:

1. Mr. Elfahl shall receive a caution, which the Hearing Tribunal's written decision shall serve as.
2. Commencing on the date he receives a copy of the Hearing Tribunal's written decision, a condition will be placed on Mr. Elfahl's practice permit that prohibits him from providing drugs by injection until he undertakes and successfully passes a CCCEP accredited injections course (full certification) at his own expense.
3. Mr. Elfahl shall provide a copy of the Hearing Tribunal's written decision in this matter to any pharmacy employer or licensee of a pharmacy in which he works, commencing on the date he receives a copy of the Hearing Tribunal's written decision and until the condition in Order 2 is removed from his practice permit.
4. Mr. Elfahl shall pay \$2,000 in costs of the investigation and hearing. Payment shall occur within 12 months of the date Mr. Elfahl receives a copy of the Hearing Tribunal's written decision on a monthly payment schedule satisfactory to the Hearings Director.

On behalf of the Complaints Director, Ms. Chisholm noted that the Agreed Statement of Facts included several facts relevant to sanction, including that Mr. Elfahl has been registered with

the College on the clinical pharmacist register since March 8, 2019, and he has no prior disciplinary history.

Ms. Chisolm submitted that the four main principles in sentencing were (1) protection of the public, (2) maintaining the integrity of the profession, (3) fairness to the member, and (4) deterrence to the member and to the profession at large.

Citing factors identified in *Jaswal v Medical Board (Newfoundland)* (1996), 42 Admin LR (2d) 233 (Nfld TD), Ms. Chisholm submitted the following factors were relevant in determining an appropriate sanction in this case:

- *Nature and gravity of the proven allegations:* Although the findings constituted unprofessional conduct, they did not, as far as the Complaint's Director was aware, result in patient harm in this case. Injecting a drug or vaccine into a patient is a restricted activity and requires that pharmacists follow the Standards of Practice. Mr. Elfahl failed to do so. Mr. Elfahl failed to actively seek out information to make an informed decision, and ensure he prepared the vaccine in a correct manner, as provided by the manufacturer. His failure to do so could have caused patient harm and was not in the best interest of the patient. With regard to Allegation 3, Mr. Elfahl's conduct demonstrates that he did not take responsibility for his actions or actively engage with his patients, the complainants, or work with them in a manner that built their relationship or confidence in his professional abilities.
- *Age and experience:* Mr. Elfahl has injection authorization from the ACP and has been on the clinical pharmacist register since 2019. He is not a new member, and this cannot be said to be a mitigating factor in this case.
- *Character and prior findings of unprofessional conduct:* Mr. Elfahl has no prior findings of unprofessional conduct. This is a mitigating factor.
- *Number of times offence proven to have occurred:* The allegations related to the administration of a vaccine to two patients on one occasion and Mr. Elfahl's response to those patients. While still very serious, this was not seen as an aggravating factor such as with allegations that demonstrated a pattern of conduct over multiple patients (beyond the two in this matter).
- *Impact on patients:* While there was no evidence of harm to patients in this case, there was a potential for harm which could not be dismissed.
- *Taking responsibility:* Mr. Elfahl's acknowledgment of his conduct is a mitigating factor, along with his cooperation in reaching an Agreed Statement of Facts and proposed Joint Submission on Penalty.
- *Deterrence:* The proposed sanctions achieve the goals of specific deterrence (aimed at ensuring Mr. Elfahl does not repeat the conduct) and general deterrence (aimed at the broader profession).

- *Public confidence:* The proposed sanctions have a deterrent effect, including the proposed caution and requirements for additional education, and to provide a copy of the decision to employees, employers and licensees, to remind them of the importance of upholding their obligations and the consequences of failing to do so.
- *Range of sanctions in similar cases:* Although the Hearing Tribunal is not bound by previous cases, out of fairness to members, similar sanctions should be applied in similar cases. Ms. Chisholm referred the Hearing Tribunal to the College's previous decision regarding the conduct of *Adel Agina*, dated September 5, 2015, which dealt with improper practice of administration of drugs and a needle stick injury and subsequent actions of the pharmacist as a result. In that case, the pharmacist was ordered to pay a fine of \$1,000, and had a condition put on his practice permit that prohibited him from providing injections until he provided the Complaint's Director with a paper highlighting the injection techniques and sterile procedures he was required to follow. He was also ordered to provide a copy of the decision to future employers and pay full costs of the hearing. Ms. Chisholm submitted that the conduct in that matter was more severe as there was evidence of patient harm.

With respect to costs, Ms. Chisholm submitted that Mr. Elfahl would be required to pay \$2,000 in costs of the investigation and hearing.

Ms. Chisholm also addressed the law on joint submissions, referring to the Supreme Court of Canada's decision in *R v Anthony-Cook*, 2016 SCC 43, where the Court held that joint submissions should be accepted unless doing so would lead reasonable and informed people to believe the functioning of the system had broken down. Ms. Chisholm submitted that the Hearing Tribunal was not bound by the Joint Submission on Penalty but must give it serious consideration and, if the Hearing Tribunal found the proposed orders did not meet the public interest test set out in *Anthony-Cook*, the Hearing Tribunal should inform the parties and hear submissions from them before proceeding. Ms. Chisholm also referred to *Bradley v. Ontario College of Teachers* 2021 O.J. No. 1558, a more recent Ontario court decision, which accepted that *Anthony-Cook* is the correct test to be applied to disciplinary bodies. Ms. Chisholm urged the Hearing Tribunal to accept the Joint Submission on Penalty, which she submitted appropriately provided specific and general deterrence. Ms. Chisholm submitted that the Complaint's Director felt the sanctions were serious enough to protect the public and the integrity of the profession going forward. Both cases referred to were included within Exhibit 2.

Ms. Chisholm confirmed that Mr. Elfahl had already completed the CCCEP accredited injections course at the time of the hearing (referred to under Order 2), with full certification, and had provided evidence of the same to the Complaint's Director. Nevertheless, proposed Order 2 (condition on permit until completion of the CCCEP accredited injection course) and 3 (the requirement to provide a copy of the Hearing Tribunal's decision to any pharmacy employer or licensee until the condition in order 2 was removed from Mr. Elfahl's practice permit) would be intended to serve as a deterrent to Mr. Elfahl, and to send a message to other pharmacists providing injections that this would be a consistent penalty or sanction to expect.

Ms. Chisholm concluded that it was the Complaint's Director's submission that the Joint Submission meets the purpose of sentencing and public interest test set out in *Anthony-Cook* and *Bradley*.

On behalf of Mr. Elfahl, Mr. Saleem agreed with Ms. Chisholm's comments with respect to the Joint Submission on Sanctions and had nothing further to add.

After deliberation, Hearing Tribunal returned with some questions regarding what completion of the CCCEP accredited injections course entailed, including cost and duration. At the suggestion of Ms. Chisholm, and with agreement of Mr. Saleem, Mr. Krempien provided more information about the course, explaining that it is a course available to registrants of the Alberta College of Pharmacy in order to be certified to engage in a registered activity, such as administering medication by injection. The course in question was currently certified and authorized by the Council of the ACP. Mr. Krempien understood the course to be a half or full day, with some preparation work prior to the in-person or virtual portion of the course. He noted that this was a full certification course Mr. Elfahl was required to take, not just a refresher course. Mr. Elfahl provided additional information, confirming the cost was around \$600 and recalling that the course included 15 modules as well as a half-day in-person portion focused on administering medication by injection. The Hearing Tribunal had no additional questions.

VII. ORDERS

After carefully considering the Joint Submission on Sanctions, the facts of the case, and the parties' submissions, the Hearing Tribunal accepted the Joint Submission on Sanctions.

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

Having regard for the factors identified in the *Jaswal* decision, the Hearing Tribunal accepted the parties' submissions as to why the proposed sanctions were appropriate and served the purpose of sanctions in the professional discipline context.

With respect to the nature and gravity of the conduct, the Hearing Tribunal was mindful that although there was no patient harm in this instance, there had been the potential of patient harm. The Hearing Tribunal considered that the legislature has given pharmacists the privilege of administering medication and they therefore have a responsibility to do so properly. The onus is on a pharmacist to know the special handling or mixing instructions for any medication they may administer. This is what the public should expect of pharmacists.

The Hearing Tribunal accepted that Mr. Elfahl's age or experience was not a mitigating factor, as he had been on the register since 2019. However, it was mitigating that Mr. Elfahl has not had any previous complaints or findings of unprofessional conduct against him.

While the conduct involved two patients, it was on the same occasion and related to the same conduct. As such, the Hearing Tribunal did not consider the number of times the conduct

occurred to be an aggravating factor as compared to other cases in which the proven allegations demonstrated a pattern of conduct with multiple patients.

The Hearing Tribunal agreed it was a mitigating factor that Mr. Elfahl had taken responsibility for his conduct, by admitting his unprofessional conduct and working with the Complaint's Director to reach an Agreed Statement of Facts and Joint Submission on Penalty.

Taken as a whole, the Hearing Tribunal is satisfied that the proposed orders will achieve the goals of specific and general deterrence, will signal to the legislature and public that the College takes its disciplinary function seriously, and will protect the public from further misconduct of this nature. It will also serve as a reminder to pharmacists of the consequences of such conduct.

The Hearing Tribunal recognized the value of Mr. Elfahl being required to undertake additional education at his own cost and appreciated that he had proactively completed the course ahead of the hearing. It was recognized that as a result of Mr. Elfahl having already completed the CCCEP course, orders 2 and 3 would not come into effect, in practice. However, the Hearing Tribunal agreed with submissions from the Complaints Director's counsel that inclusion of such orders would serve as a deterrent to Mr. Elfahl and other members.

On the issue of costs, the Hearing Tribunal considered the amount of costs and timeline to pay proposed by the parties to be reasonable in the circumstances.

Accordingly, the Hearing Tribunal orders as follows:

1. Mr. Elfahl shall receive a caution, which the Hearing Tribunal's written decision shall serve as.
2. Commencing on the date he receives a copy of the Hearing Tribunal's written decision; a condition will be placed on Mr. Elfahl's practice permit that prohibits him from providing drugs by injection until he undertakes and successfully passes a CCCEP accredited injections course (full certification) at his own expense.
3. Mr. Elfahl shall provide a copy of the Hearing Tribunal's written decision in this matter to any pharmacy employer or licensee of a pharmacy in which he works, commencing on the date he receives a copy of the Hearing Tribunal's written decision and until the condition in Order 2 is removed from his practice permit.
4. Mr. Elfahl shall pay \$2,000 in costs of the investigation and hearing. Payment shall occur within 12 months of the date Mr. Elfahl receives a copy of the Hearing Tribunal's written decision on a monthly payment schedule satisfactory to the Hearings Director.

Signed on behalf of the Hearing Tribunal by the Chair on January 14, 2025.

Per: *Kory Sloan*
Kory Sloan (Jan 14, 2025 08:03 MST)

Kory Sloan