

ALBERTA COLLEGE OF PHARMACY
IN THE MATTER OF
THE HEALTH PROFESSIONS ACT, R.S.A. 2000, c. H-7
AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

Mohamed Said Ibrahim
Registration number 9354

DECISION OF THE HEARING TRIBUNAL

March 16, 2020

I. INTRODUCTION

- [1] The Hearing Tribunal held a hearing into the conduct of Mr. Mohamed Ibrahim. In attendance on behalf of the Hearing Tribunal were Mr. Naeem Ladhani, Pharmacist and Chairperson; Ms. Beverley Rushton, Pharmacist; Mr. Kamal Dullat, Pharmacist; and Ms. Pat Matusko, Public Member.
- [2] The hearing took place on December 9, 2019 at College Plaza, in the second-floor conference centre, located at 8215 112 Street NW in Edmonton, Alberta. The hearing was conducted pursuant to the *Health Professions Act*, R.S.A. 2000, c. H-7 (the "*Health Professions Act*").
- [3] In attendance at the hearing were Mr. James Krempien, Complaints Director for the Alberta College of Pharmacy (the "College"); Mr. David Jardine, legal counsel and Ms. Annabritt Chisholm, legal counsel, representing the Complaints Director; Mr. Mohamed Ibrahim, Investigated Member; and Ms. Amanda Kostek, legal counsel, representing Mr. Ibrahim. Ms. Julie Gagnon was also in attendance and provided independent legal counsel to the Hearing Tribunal.
- [4] There were no objections to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing. The Chair confirmed the hearing was open to the public pursuant to section 78 of the *Health Professions Act*.

II. ALLEGATIONS

- [5] The Hearing Tribunal held a hearing to inquire into the following complaints or matters with respect to Mr. Ibrahim as set out in the amended Notice of Hearing that was entered into evidence as Exhibit 1:
- [6] IT IS ALLEGED THAT while you were both a licenced Alberta pharmacist and the licensee and sole practicing pharmacist at the former Evergreen Pharmacy, located at 9707 108 Avenue NW, Edmonton, Alberta T5H 4R9, you created an unsafe pharmacy environment and provided unsafe pharmacy care to patients when you:
1. Personally dispensed over 800 prescriptions daily, between February 4, 2018 and February 17, 2018, without the assistance of another regulated pharmacy professional;
 2. Failed, between February 4, 2018 and February 17, 2018, to successfully upload a significant portion of the pharmacy's dispensing events onto Netcare;
 3. Failed, between February 4, 2018 and February 17, 2018, to identify or respond to numerous drug errors or discrepancies;
 4. Failed, between February 4, 2018 and February 17, 2018:

- a. to conduct the required daily assessment and monitoring;
- b. to properly review the Netcare files prior to each dispensing event; and
- c. to sufficiently document treatment plans and goals of therapy for patients to whom you dispensed opioids;

all of which is contrary to what is set out in the ACP's *Guidance for Assessment and Monitoring: Individuals Using Opioid Medications*;

5. Failed, between February 4, 2018 and February 17, 2018 to review and make note of your patients' Netcare data (e.g. PIN and laboratory results) for a significant number of pharmacy patients;
6. Failed, between February 4, 2018 and February 17, 2018 to employ sufficient pharmacy staff to properly and safely provide the documented services to the pharmacy's patients;
7. Between February 4, 2018 and February 17, 2018 relied primarily on the assessment of the physician and patient to determine the appropriateness of daily dispensing to a number of the pharmacy's patients; and
8. Between February 4, 2018 and February 17, 2018 failed to adapt your patients' prescriptions for continuity of care prescriptions or other reasons, and instead directed your patients to contact their physicians.

[7] 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 and a pharmacy licensee;
- b. Failed to exercise the clinical judgment reasonably expected and required of an Alberta pharmacist and pharmacy licensee;
- c. Failed to exercise the professional and ethical conduct expected and required of an Alberta pharmacist and a pharmacy licensee; and
- d. Was contrary to accepted pharmacist practice.

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

- Standards 1 (sub-standards 1.1, 1.2 and 1.9), 2 (sub-standard 2.1), 3 (sub-standards 3.1 and 3.5) and 18 (sub-standard 18.1(c)) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Standards 1 (sub-standards 1.1 and 1.2), 3 (sub-standard 3.1), and 6 (sub-standards 6.1 and 6.3) of the Standards for the Operation of Licensed Pharmacies;

- Principles 1, 7 (1, 2, 3 and 4), and 10 (1 and 3) of the ACP Code of Ethics;
- Sub-section 46(1)(b) of the *Health Information Act*;
- Section 7.1 of the *Health Information Regulation*;
- Section 3, sub-sections 5(1)(c) and 5(4) and sub-sections 10(1)(a), 10(1)(b) and 10(1)(d)(iv) of the *Pharmacy and Drug Act*; and
- Sub-sections 20(2) and 25(e) of the Pharmacy and Drug Regulation;

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), 1(1)(pp)(iii) and 1(1)(pp)(xii) of the *Health Professions Act* and misconduct pursuant to the provisions of sections 1(1)(p)(i), 1(1)(p)(ii), and 1(1)(p)(ix) of the *Pharmacy and Drug Act*.

III. PRELIMINARY MATTERS

- [9] Mr. Jardine, on behalf of the Complaints Director, requested that the Hearing Tribunal make an order that where patient names are referenced in any document entered into evidence or in the written decision of the Hearing Tribunal, that the patient names be redacted. Ms. Kostek had no objections.
- [10] The Hearing Tribunal consequently ordered that any references to patient names in documents entered into evidence or in the Hearing Tribunal's written decision will be redacted.

IV. EVIDENCE AND ADMISSION OF UNPROFESSIONAL CONDUCT

- [11] The following were marked as Exhibits during the hearing:

Exhibit 1 – Amended Notice of Hearing

Exhibit 2 – Admission of Unprofessional Conduct

Exhibit 3 – Investigation Report and selected Tabs 1, 2, 7, 10, 21, 24, 31, and 33

Exhibit 4 – Joint Submission on Sanction

Mr. Jardine noted that Mr. Ibrahim had entered into an admission of unprofessional conduct pursuant to section 70 of the *Health Professions Act* for consideration by the Hearing Tribunal. The written admission of unprofessional conduct was entered into evidence as Exhibit 2. Mr. Jardine stated that the admission addresses the most pressing issues of the matter, and therefore is acceptable to the Complaints Director. The Complaints Director chose not to pursue everything in the original Notice of Hearing, hence the amended Notice of Hearing, which was entered into evidence. The admission allowed for a significant

reduction in time needed to address the matter, prevented the need to call witnesses at the hearing, and allowed a significant reduction in required hearing time.

[12] The Admission of Unprofessional Conduct (Exhibit 2) states:

1. Pursuant to section 70 of the *Health Professions Act*, Mohamed Ibrahim wishes to provide a written admission of unprofessional conduct under the *Health Professions Act* for consideration by the Hearing Tribunal.
2. Mr. Ibrahim acknowledges and admits that while he was both a licensed Alberta pharmacist and the licensee and sole practicing pharmacist at the former Evergreen Pharmacy, located at 9707 108 Avenue NW, Edmonton, Alberta T5H 4R9, he created an unsafe pharmacy environment and provided unsafe pharmacy care to patients when he:
 1. Personally dispensed over 800 prescriptions daily, between February 4, 2018, and February 17, 2018, without the assistance of another regulated pharmacy professional;
 2. Failed, between February 4, 2018 and February 17, 2018, to successfully upload a significant portion of the pharmacy's dispensing events onto Netcare;
 3. Failed, between February 4, 2018 and February 17, 2018, to identify or respond to numerous drug errors or discrepancies.
 4. Failed, between February 4, 2018 and February 17, 2018:
 - a. to conduct the required daily assessment and monitoring;
 - b. to properly review the Netcare files prior to each dispensing event; and
 - c. to sufficiently document treatment plans and goals of therapy for patients to whom he dispensed opioids;

all of which is contrary to what is set out in the ACP's *Guidance for Assessment and Monitoring: Individuals Using Opioid Medications*;
 5. Failed, between February 4, 2018 and February 17, 2018 to review and make note of his patients' Netcare data (e.g. PIN and laboratory results) for a significant number of pharmacy patients;
 6. Failed between February 4, 2018 and February 17, 2018 to employ sufficient pharmacy staff to properly and safely provide the documented services to the pharmacy's patients;

7. Between February 4, 2018 and February 17, 2018 relied primarily on the assessment of the physician and patient to determine the appropriateness of daily dispensing to a number of the pharmacy's patients; and
 8. Between February 4, 2018 and February 17, 2018 failed to adapt his patients' prescriptions for continuity of care prescriptions or other reasons, and instead directed his patients to contact their physicians.
3. Mr. Ibrahim agrees and acknowledges that his conduct in these matters:
 - a. Breached his statutory and regulatory obligations to the Alberta College of Pharmacy as an Alberta pharmacist and a pharmacy licensee;
 - b. Failed to exercise the clinical judgment reasonably expected and required of an Alberta pharmacist and licensee;
 - c. Failed to exercise the professional and ethical conduct expected and required of an Alberta pharmacist and pharmacy licensee; and
 - d. Was contrary to accepted pharmacist standards and practice.
 4. Mr. Ibrahim further agrees and acknowledges that his conduct, as set out above, constitutes a breach of the following statutes, standards of practice and code of ethics governing the practice of pharmacy, specifically:
 - a. Standards 1 (sub-standards 1.1, 1.2 and 1.9), 2 (sub-standard 2.1), 3 (sub-standards 3.1 and 3.5) and 18 (sub-standard 18.1(c)) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
 - b. Standards 1 (sub-standards 1.1 and 1.2), 3 (sub-standard 3.1) and 6 (sub-sections 6.1 and 6.3) of the Standards for the Operation of Licensed Pharmacies;
 - c. Principles 1, 7 (1, 2, 3 and 4), and 10 (1 and 3) of the Alberta College of Pharmacy's Code of Ethics;
 - d. Sub-section 46(1)(b) of the *Health Information Act*;
 - e. Section 7.1 of the Health Information Regulation;
 - f. Sections 3, sub-sections 5(1)(c) and 5(4) and sub-sections 10(1)(a), 10(1)(b) and 10(1)(d)(iv) of the *Pharmacy and Drug Act*; and
 - g. Sub-sections 20(2) and 25(e) of the Pharmacy and Drug Regulation;

and that his 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), 1(1)(pp)(iii) and 1(1)(pp)(xii) of the *Health*

Professions Act and misconduct pursuant to the provisions of sections 1(1)(p)(i), 1(1)(pp)(ii) and 1(1)(p)(ix) of the *Pharmacy and Drug Act*.

5. As Complaints Director, James Krempien, acknowledges that Mr. Ibrahim and his legal counsel have been fully cooperative throughout the investigation, hearing process and in developing this Admission of Unprofessional Conduct.
 6. Mr. Ibrahim acknowledges that he has received legal advice prior to entering this Admission of Unprofessional Conduct and that he understands that if the Hearing Tribunal accepts his Admission of Unprofessional Conduct, the Hearing Tribunal may proceed to issue one or more of the orders set out in section 82(1) of the *Health Professions Act*.
- [13] At Mr. Jardine's request, the Complaints Director's Investigation Report regarding Mr. Mohamed Ibrahim dated June 26, 2018 was entered as Exhibit 3. Mr. Jardine, however, noted that the Complaints Director is not seeking to use this as proof as if it were entered into evidence through the Complaints Director being called as a sworn witness. In this instance, it was provided to the Hearing Tribunal exclusively for contextual purposes. The Complaints Director is relying on Mr. Ibrahim's admission of unprofessional conduct and requested that the Hearing Tribunal also rely on the admission rather than the Investigation Report.
- [14] Ms. Kostek, on behalf of the Investigated Member, further added that this matter involved a significant amount of documentation (the Complaints Director's original disclosure was greater than 1,200 pages) and there was significant cooperation on the part of Mr. Ibrahim with the Complaints Director.

V. SUBMISSIONS

Submissions by the Complaints Director

- [15] On behalf of the Complaints Director, Mr. Jardine reviewed the amended Notice of Hearing and Mr. Ibrahim's written admission of unprofessional conduct. Mr. Jardine noted:
- Mr. Ibrahim did not agree with all of the conclusions in the Investigation Report.
 - The exact number of prescriptions dispensed by Mr. Ibrahim during the period of time in question is in dispute, but there is agreement that it was never less than 800 prescriptions per day, and the number of patients was approximately 80 per day. The majority of the patients were on daily dispensing.
 - There were numerous drug errors or discrepancies during the period of time in question, but there were no specific patient harms associated with any of them.
 - During the period of time in question, the only staff employed at the pharmacy were Mr. Ibrahim, as pharmacist, a pharmacy assistant, and two delivery drivers.

- While all prescriptions were dispensed pursuant to a valid prescription, Mr. Ibrahim did not assess the appropriateness of daily dispensing for a number of the patients and instead relied solely on the assessment of the physician and patient.
- For a number of prescriptions, there were differences between how a prescription was actually being taken and the information that was uploaded to Netcare; a prescription adaptation was not done.
- Due to his admitted conduct, Mr. Ibrahim further admitted to breaching a number of Standards of Practice for Pharmacists and Pharmacy Technicians, Standards for the Operation of Licensed Pharmacies, principles of the College's Code of Ethics, and a number of sections of the *Health Information Act*, *Health Information Regulation*, *Pharmacy and Drug Act*, and *Pharmacy and Drug Regulation*.
- As part of his written admission, Mr. Ibrahim admitted that his conduct constitutes unprofessional conduct under the *Health Professions Act* and misconduct under the *Pharmacy and Drug Act*.
- Mr. Ibrahim's admissions were worked out between the parties with substantial cooperation. To Mr. Ibrahim's credit, there were no attempts to qualify or limit the admissions.
- On completion of the investigation, the Complaints Director made a recommendation to a panel under section 23.1 of the *Pharmacy and Drug Act* to suspend Mr. Ibrahim's pharmacy license for Evergreen Pharmacy pending the investigation. The panel made such an order effective March 9, 2018, and Mr. Ibrahim complied with this order.
- Mr. Ibrahim had a previous finding of unprofessional conduct. In that matter, the issue was failure to cooperate. In this matter, Mr. Ibrahim did cooperate, provided everything he was asked for and always remained in contact with the College during the investigation.

Submissions by the Investigated Member

- [16] Ms. Kostek, on behalf of Mr. Ibrahim, reiterated that the Investigation Report (Exhibit 3) was provided to the Hearing Tribunal for context only and does not carry the same weight as if introduced through the Complaints Director's witness testimony. There was significant cooperation between the parties, and Mr. Ibrahim has demonstrated that he is prepared to take responsibility and acknowledges the seriousness of the allegations.

Questions from the Hearing Tribunal

- [17] In response to questions from the Hearing Tribunal:

- Mr. Jardine explained that the majority of patients were on opioid medications. 78 out of 81 patients were on at least 1 opioid medication, and 33 patients were on at least 2 opioid medications.
- Ms. Kostek noted that not all of the prescriptions were for opioids, even though the majority of patients were on at least 1 opioid medication.
- The parties clarified Allegation 3 and noted there were no instances of the wrong medication being dispensed or any instances of the wrong quantity or dosage being dispensed. There were also no errors related to Type 1 Triplicate Prescription Program medications.
- The requirement to upload dispensing events into Netcare flows from requirements under the *Health Information Act* and Health Information Regulation.
- Mr. Jardine explained that pharmacists have an obligation to assess the appropriateness of a prescription, and that includes appropriateness of daily dispensing. In many instances in this matter, that did not occur and there was no evidence that appropriateness of daily dispensing was assessed on the part of the pharmacist.
- In responding to the Hearing Tribunal's questions regarding Allegation 8, there was a difference in opinion between the parties on the interpretation of this allegation.
- Mr. Jardine explained that from the Complaints Director's perspective, Allegation 8 referred to the fact that what was dispensed (e.g. instructions for use) and uploaded to Netcare did not match how the medication was actually being used. Mr. Ibrahim disagreed with this perspective.
- Following discussions between the parties, the parties concluded that they had a difference in perspective on Allegation 8, and the Complaints Director requested that Allegation 8 be withdrawn, noting it was more minor, relative to the other allegations.

[18] Both parties jointly requested the Hearing Tribunal accept Mr. Ibrahim's admission of unprofessional conduct made under section 70 of the *Health Professions Act*. The parties noted that they were prepared to proceed with a joint submission on sanctions if the Hearing Tribunal accepts the admission.

VI. FINDINGS

[19] The Hearing Tribunal verbally advised the parties during the hearing that having considered Mr. Ibrahim's Admission of Unprofessional Conduct and the submissions of the parties, it accepted the admission, found Allegations 1 through 7 were proven and found that the conduct constituted unprofessional conduct under the *Health Professions Act* and misconduct under the *Pharmacy and Drug Act*. The Hearing Tribunal did not make a finding on Allegation 8.

- [20] In making its finding of unprofessional conduct, the Hearing Tribunal notes that it was presented with limited facts. The Complaints Director’s Investigation Report was entered as an exhibit, but the Hearing Tribunal was requested not to rely on it in making its findings of fact. No evidence was called via witness testimony, and there was no agreed statement of facts presented. Instead the Hearing Tribunal was asked to rely upon a written admission of unprofessional conduct by the Investigated Member.
- [21] The Hearing Tribunal is tasked under the *Health Professions Act* to make findings of fact on the allegations before it and to make a determination of whether conduct constitutes unprofessional conduct as defined in the *Health Professions Act*. The Hearing Tribunal is limited in making its findings of fact, given the nature of this hearing. However, the Hearing Tribunal is prepared to accept as facts, the admissions made by the Investigated Member in Exhibit 2.
- [22] The Hearing Tribunal finds that Mr. Ibrahim’s conduct constitutes unprofessional conduct under the following provisions of the *Health Professions Act*:
- s.1(1)(pp): unprofessional conduct means one or more of the following, whether or not it is disgraceful or dishonourable:
- (i) displaying a lack of knowledge of or a lack of skill or judgment in the provision of professional services;
 - (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.
- [23] While there is no limit in the legislation or standards of practice regarding the number of prescriptions that can be dispensed, the context of the prescriptions dispensed must be considered. In this case, Mr. Ibrahim was the sole pharmacist and employed only one pharmacy assistant. It was not reasonable or appropriate for him to be dispensing over 800 prescriptions per day.
- [24] The ACP *Guidance for Assessment and Monitoring: Individuals using Opioid Medications* (“Guidelines”) provides the following guidance for pharmacists and pharmacy technicians:
- Pharmacists must establish and maintain a professional relationship with each individual using opioid medications.
 - Pharmacists must complete a thorough assessment of each individual who is prescribed opioid medications or sold an exempted codeine product. This assessment must include a review of the Electronic Health Record (Netcare) every time a prescription for an opioid medication is dispensed or sold.
 - Pharmacists must document details of the assessment in the patient record of care and develop a written treatment plan for individuals using long term opioid therapy or for those determined to be at high risk of misuse or addiction.

- Pharmacists must collaborate with the prescriber and other healthcare professionals involved in the care of individuals using opioid medications.
 - Pharmacists and pharmacy technicians must monitor individuals for the signs of opioid misuse, diversion, or addiction and take appropriate action.
- [25] The Standards of Practice for Pharmacists and Pharmacy Technicians (“Standards”) sets standards for pharmacists in Alberta. The Standards require compliance with the law and the spirit of the law (Standard 1.1 and 1.2). Pharmacists must participate in quality assurance processes or programs applicable to the pharmacist’s pharmacy (Standard 1.9).
- [26] Standard 2.1 requires a pharmacist to identify each patient’s health needs, collect information and consider information and make decisions in the best interest of the patient. Standard 3.1 requires a pharmacist to consider appropriate information to assess a patient and the patient’s health history and history of drug therapy each time the pharmacist prescribes or dispenses a Schedule 1 drug, conducts a review of a patient’s drug utilization or provides advice to a patient about a drug. Standard 3.5, provides for additional information that may be required and must be considered for each patient.
- [27] The Standards for the Operation of Licensed Pharmacies (“Pharmacy Standards”) require a licensee to comply with the letter and spirit of the law (Pharmacy Standard 1.1 and 1.2). Pharmacy Standard 3.1 requires a licensee to ensure that the pharmacy has an adequate number of staff to provide professional services safely, effectively and in accordance with the law.
- [28] A licensee must ensure that the pharmacy has appropriate systems, policies and procedures in place to minimize the risk of a drug incident or an adverse drug event (Pharmacy Standard 6.1) and that appropriate quality assurance processes are implemented and maintained (Pharmacy Standard 6.2).
- [29] The Code of Ethics requires pharmacists to hold the well-being of each patient as their primary consideration (Principle 1). Principle 7 requires the pharmacist to create a work environment that allows pharmacists and pharmacy technicians to fully comply with the laws governing the practice of pharmacy, maintain the appropriate human resources to ensure the laws governing the practice of pharmacy and operation of pharmacies are complied with and patient health needs are met and to incorporate technologies and systems into practice to improve effectiveness and efficiency in the delivery of healthcare. Principle 10 requires compliance with the letter and spirit of the law.
- [30] The Hearing Tribunal finds that Mr. Ibrahim breached the Guidelines, Standards, Pharmacy Standards and Code of Ethics. A pharmacist, working as the sole pharmacist with one pharmacy assistant, cannot meet the guidelines, standards and principles set out in the Code of Ethics where the pharmacist is dispensing 800 prescriptions per day. A pharmacist working in these conditions is not capable of adequately participating in quality assurance processes or programs. Adequate controls and checks cannot be maintained. Mr. Ibrahim did not have the appropriate staff in place. Although there was no evidence of patient harm, this conduct increases the risk of harm to patients. There were numerous drug errors or discrepancies that were not identified or responded to. The failure to upload

dispensing events to Netcare also increases the risk of harm to patients, as the patient record will not be accurate. Further, a pharmacist has a duty to determine the appropriateness of a prescription prior to dispensing it and cannot simply rely on the assessment by the physician.

- [31] The *Health Information Act* and Health Information Regulation set requirements for pharmacists and general requirements with respect to Netcare. The Hearing Tribunal accepts the submissions of the parties that Mr. Ibrahim's conduct breached these requirements.
- [32] The *Pharmacy and Drug Act* defines misconduct to include conduct that contravenes the Act, is detrimental to the best interest of the public or harms the integrity of the profession (section 1(p)). A licensee must ensure that due diligence is exercised in the dispensing of drugs and ensure that all required records are created and maintained in accordance with the Act (section 10(1)). The Pharmacy and Drug Regulation requires a licensee to ensure there are the requisite number of staff with the training and qualifications for the safe and effective provision of pharmacy services. The Hearing Tribunal accepts the admission of Mr. Ibrahim and the submissions of the parties that Mr. Ibrahim's conduct breached these provisions.
- [33] Mr. Ibrahim's conduct shows a lack of knowledge, skill or judgment in the provision of professional services, breaches the standards of practice and code of ethics, breaches the *Health Information Act* and Health Information Regulation and the *Pharmacy and Drug Act* and Pharmacy and Drug Regulation. In addition, the conduct undermines the integrity of the profession. Public confidence is undermined where a pharmacist practices under these conditions.

VII. SUBMISSIONS ON SANCTIONS

- [34] The parties presented a joint submission on sanction, which was entered as Exhibit #4, for consideration by the Hearing Tribunal. The parties requested the following orders, under section 82 of the *Health Professions Act*:
1. Mr. Ibrahim's practice permit shall be suspended for a period of 24 months, effective January 1, 2019 to December 31, 2020.
 2. Mr. Ibrahim shall pay a \$10,000 fine for Allegations 1 and 2 combined and a \$10,000 fine for the remaining Allegations, for a total fine of \$20,000, payable on a 36-month payment schedule acceptable to the Hearings Director that shall commence on January 1, 2021.
 3. Mr. Ibrahim shall not be reinstated as a clinical pharmacist with the ACP after serving his period of suspension in Order 1, unless he has successfully completed the Centre for Personalized Education for Professional's (CPEP) Probe Course and provided evidence of successful completion to the Complaints Director.

4. Mr. Ibrahim shall not serve as a licensee, owner or proprietor for a period of 5 years, effective March 9, 2018 to March 8, 2023.
5. After serving his suspension set out in Order 1 above, and upon reinstating as a clinical pharmacist with the ACP and returning to pharmacy practice, Mr. Ibrahim shall provide the licensee of any pharmacy he is employed in with a copy of the Hearing Tribunal's written decision in this matter and for a 1-year period following the commencement of Mr. Ibrahim's employment with the pharmacy, the licensee shall provide a report to the Complaints Director that includes whether any concerns have arisen with respect to the matters addressed in the Hearing Tribunal's written decision, every three months to the satisfaction of the Complaints Director;
6. Mr. Ibrahim shall be responsible for payment of \$25,000 in costs, expenses and fees related to the investigation and hearing of this matter, all of which are to be paid on a 36-month payment schedule acceptable to the Hearings Director, that shall commence January 1, 2021.

Submissions made by the Complaints Director

- [35] On behalf of the Complaints Director, Mr. Jardine introduced the joint submission on sanctions, reminding the Hearing Tribunal of the importance of joint submissions in disciplinary proceedings. Joint submissions provide economy of process and reduce required hearing time. They are not binding upon the Hearing Tribunal but must be seriously considered and only rejected if contrary to the public interest. There is also an element of fairness to the Investigated Member in terms of a reasonable expectation of certainty in having agreed with the Complaints Director.
- [36] Protection of the public and the integrity of the profession are prime considerations of sanctions in disciplinary proceedings. Mr. Jardine went on to review the specific factors to consider in making sanctions, as laid out in *Jaswal v. Newfoundland Medical Board* (1996), 42 Admin L.R. (2d) 1242:
- In terms of the nature and gravity of the conduct, this was very serious conduct and requires a serious sanction to make clear that it is not acceptable and cannot be repeated.
 - In terms of age and experience of the member, Mr. Ibrahim was not a licensee for very long at the time of the conduct. He was not brand new but also did not have significant experience in the Canadian system. This is neither a mitigating nor aggravating factor in this case.
 - In terms of previous character of the member and the presence or absence of any prior complaints or disciplinary action, Mr. Ibrahim was found to have committed unprofessional conduct in 2018, related to conduct in December 2017. The previous matter and this one were fairly close in timeline, but the previous matter was a different issue, related to not cooperating with the investigation. There is no allegation around

failure to cooperate in this matter. Mr. Ibrahim continued to cooperate throughout this process. Therefore, this is not a serious aggravating factor.

- In terms of age and condition of the offended patients, it was a particularly vulnerable patient population on opioid medications that requires more attention. However, there is no suggestion of exploitation of any patients.
- In terms of the number of times the offence occurred, it was ongoing throughout a 2-week period.
- In terms of the role of the member in acknowledging what had occurred, this is a specific mitigating factor in this case. Mr. Ibrahim took the matter seriously and cooperated throughout the process, limiting the hearing time required and the associated time and expense. This case would have likely required 4 to 5 hearing days. It is a major concession for a member to sign an admission of unprofessional conduct in front of their peers.
- In terms of whether the member already suffered other serious financial or other penalties as a result of the conduct, Mr. Ibrahim's pharmacy license for Evergreen Pharmacy has been suspended under section 23.1 of the *Pharmacy and Drug Act* since March 9, 2018 and he voluntarily chose not to practice as a pharmacist since then.
- In terms of the impact of the conduct on the offended patient(s), there was no specific patient harm.
- In terms of the presence or absence of mitigating circumstances, Mr. Ibrahim's admission is a major mitigating factor.
- In terms of the need to promote specific and general deterrence to protect the public and ensure safe and proper practice, the proposed sanctions achieve that.
- In terms of the need to maintain the public's confidence in the integrity of the profession, the proposed sanctions also achieve that.
- In terms of the degree to which the conduct was clearly outside the range of permitted conduct, the conduct was significantly outside the range of permitted conduct from the Complaints Director's perspective. It was also not a single mistake but ongoing over a 2-week period.
- In terms of the range of sentences in other similar cases, there is no closely equivalent case in Alberta or other jurisdictions. Therefore, this case and the sanctions are especially important.

[37] Mr. Jardine reviewed and expanded upon certain aspects of the proposed sanctions:

- A 24-month suspension is serious and justified. Because Mr. Ibrahim's pharmacy license for Evergreen Pharmacy was suspended in March 2018 and he has not practiced

since then, the Complaints Director was prepared to give some credit towards the 24-month suspension. It is therefore effective January 1, 2019.

- The maximum fine for a single charge allowed under the *Health Professions Act* is \$10,000. The maximum fine is proposed for Allegations 1 and 2 combined as well as \$10,000 for the remaining allegations (3 to 7) combined. This recognizes the seriousness of the conduct. This is not affected by no finding for Allegation 8.
- The Centre for Personalized Education for Professional's (CPEP) PROBE course is often required in cases where there is an ethical component, and it is widely used by a number of regulatory colleges.
- The proposed sanction to not serve as a licensee for 5 years is made effective March 9, 2018 to recognize the interim suspension that started March 9, 2018.
- It is proposed that not only must Mr. Ibrahim provide a copy of the Hearing Tribunal's written decision to any pharmacy he is employed at but that the licensee of that pharmacy must provide a report to the Complaints Director every 3 months on whether any concerns have arisen with respect to the matters addressed in the Hearing Tribunal's written decision. Direct supervision specifically was not required.
- \$25,000 is a substantial portion of the costs of the investigation and hearing and the Complaints Director considers this fair.

[38] The proposed sanctions recognize the significant cooperation on the part of Mr. Ibrahim, are fair and reasonable and promote both specific deterrence and general deterrence.

Submissions made by the Investigated Member

[39] On behalf of Mr. Ibrahim, Ms. Kostek noted that:

- Given Mr. Ibrahim's previous disciplinary action was close in time to this matter, it should not be considered a repeat offence.
- In addition, Mr. Ibrahim worked collaboratively with the Complaints Director and voluntarily has not practiced for nearly 2 years.
- He entered into admission and accepted responsibility. This prevented the need for witnesses to testify.
- Mr. Ibrahim was a relatively new licensee and owner of Evergreen Pharmacy; he had only been licensee for 14 months when the pharmacy license was suspended.
- There is precedent for credit to be given towards a suspension, as seen in the Calvin Boey decision (November 4, 2013).

- The proposed sanctions meet the goals of sentencing and sufficiently protects the public interest and the integrity of the profession.
- The Hearing Tribunal was urged to accept the joint submission on sanctions.

Questions from the Hearing Tribunal

[40] In response to questions from the Hearing Tribunal:

- The parties confirmed that the PROBE course would be at Mr. Ibrahim's expense.
- The parties had no objections to the Hearing Tribunal's suggestion to change the wording for proposed Order #5 to read as follows: "After serving his suspension set out in Order 1 above, and for a one-year period upon reinstating as a clinical pharmacist with the ACP and returning to pharmacy practice, Mr. Ibrahim shall provide the licensee of any pharmacy he is employed in with a copy of the Hearing Tribunal's written decision in this matter, and for a one-year period following the commencement of Mr. Ibrahim's employment with the pharmacy, the licensee shall provide a report to the Complaints Director that includes whether any concerns have arisen with respect to the matters addressed in the Hearing Tribunal's written decision, every three months to the satisfaction of the Complaints Director."

VIII. ORDERS

[41] During the hearing on December 9, 2019, the Hearing Tribunal verbally advised the parties that having considered the joint submission on sanctions and the submissions of both parties, it accepted the joint submission.

[42] As with the findings, due to the limited facts presented, it was difficult for the Hearing Tribunal to assess the sanctions. However, the Hearing Tribunal recognizes that it is required to give deference to a joint submission and that it may only reject a joint submission if it is unfit, unreasonable or contrary to the public interest.

[43] Having considered the information available to the Hearing Tribunal and the high level of deference owed in a joint submission on sanction, the Hearing Tribunal found that the joint submission should be accepted. The Hearing Tribunal did not find that the joint submission was unfit, unreasonable or contrary to the public interest and as such, is prepared to accept it.

[44] The Hearing Tribunal makes the following orders:

1. Mr. Ibrahim's practice permit shall be suspended for a period of 24 months, effective January 1, 2019 to December 31, 2020.

2. Mr. Ibrahim shall pay a \$10,000 fine for Allegations 1 and 2 combined and a \$10,000 fine for the remaining Allegations, for a total fine of \$20,000, payable on a 36-month payment schedule acceptable to the Hearings Director that shall commence on January 1, 2021.
3. Mr. Ibrahim shall not be reinstated as a clinical pharmacist with the ACP after serving his period of suspension in Order 1, unless he has successfully completed the Centre for Personalized Education for Professional's (CPEP) Probe Course and provided evidence of successful completion to the Complaints Director.
4. Mr. Ibrahim shall not serve as a licensee, owner or proprietor for a period of 5 years, effective March 9, 2018 to March 8, 2023.
5. After serving his suspension set out in Order 1 above, and for a one-year period upon reinstatement as a clinical pharmacist with the ACP and returning to pharmacy practice, Mr. Ibrahim shall provide the licensee of any pharmacy he is employed in with a copy of the Hearing Tribunal's written decision in this matter, and for a one-year period following the commencement of Mr. Ibrahim's employment with the pharmacy, the licensee shall provide a report to the Complaints Director that includes whether any concerns have arisen with respect to the matters addressed in the Hearing Tribunal's written decision, every three months to the satisfaction of the Complaints Director.
6. Mr. Ibrahim shall be responsible for payment of \$25,000 in costs, expenses and fees related to the investigation and hearing of this matter, all of which are to be paid on a 36-month payment schedule acceptable to the Hearings Director, that shall commence January 1, 2021.

Signed on behalf of the Hearing Tribunal by its Chairperson this 16th day of March, 2020.

Per:

 [Naeem Ladhani]
Naeem Ladhani, Pharmacist, Chairperson