

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE *HEALTH PROFESSIONS ACT*

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

ANKIT PARIKH

Registration number: 6688

DECISION OF THE HEARING TRIBUNAL

Closed hearing

November 24, 2023

I. INTRODUCTION

1. The hearing tribunal held a hearing into the conduct of Mr. Ankit Parikh. In attendance on behalf of the hearing tribunal were Mr. Kamal Dullat, Chair and Regulated Member; Ms. Mary Gunther, Regulated Member; Ms. Pat Matusko, Public Member; Mr. David Rolfe, Public Member.
2. Ms. Ayla Akgungor of Field Law acted as independent legal counsel to the hearing tribunal at the hearing and up until the time of her appointment to the Court of King's Bench on October 23, 2023. After that James T. Casey, K.C. acted as independent legal counsel.
3. The hearing took place on November 9, 10, 17 and 18, 2022 over Zoom. The parties filed written submissions in this matter. All written submissions were received from the parties by February 10, 2023. The hearing was held under the terms of Part 4 of the *Health Professions Act*.
4. In attendance at the hearing were Ms. Annabritt Chisholm, legal counsel; Mr. David Jardine, legal counsel; and Mr. James Krempien, Complaints Director representing the college; and Mr. Curtis Wolff, representing the investigated member; Mr. Parikh. Mr. Parikh was also in attendance at the hearing.
5. There were no objections to the composition of the hearing tribunal or the jurisdiction of the hearing tribunal to proceed with a hearing.

II. ALLEGATIONS

6. The allegations against Mr. Parikh are as follows:

It is alleged that while you were both a registered Alberta pharmacist and the licensee of [REDACTED] Pharmacy (ACP License [REDACTED]) (the "Pharmacy"), you:

1. Engaged in sexual abuse of your employee and patient, Individual A, including when you:
 - (a) Used your body to block Individual A against the fridge;
 - (b) Threatened to rape Individual A if she didn't have sexual intercourse with you;
 - (c) Engaged in sexual intercourse with Individual A in the Pharmacy on multiple occasions between October 2018 and September 2019 without her consent.
2. Engaged in sexual misconduct towards your employee and patient, Individual A, including when you:
 - (a) approached Individual A and told her you had just brushed your teeth and wanted a kiss;

- (b) told Individual A that you masturbated to the thought of her.
- 3. Engaged in sexual abuse of your employee and patient, Individual B, between approximately 2015 and 2016, when you:
 - (a) Asked Individual B to perform oral sex on you in relation to providing her a \$50.00 advance on her paycheck;
 - (b) Engaged in sexual intercourse with Individual B in the Pharmacy on multiple occasions without her consent.
- 4. Breached your duties as a licensee when you caused your employee and patient, Individual C, to feel uncomfortable, including when you:
 - (a) Suggested Individual C lose weight to look better;
 - (b) Repeatedly stared at the nametag on Individual C's chest such that she stopped wearing a nametag;
 - (c) Repeatedly allowed your friend to socialize with you in the Pharmacy, although you knew he made comments of a sexual nature to Individual C.
- 5. Breached your duties as a licensee when you caused your employee and patient, Individual D, to feel uncomfortable, including when you:
 - (a) Commented on Individual D's body shape;
 - (b) Invited Individual D to stay after work to drink with you in the Pharmacy;
 - (c) Invited Individual D to go to bar without you after work;
 - (d) Suggested to Individual D it was ok to cheat on a wife.
- 6. Repeatedly consumed alcohol on the Pharmacy premises, including when the Pharmacy was open to patients and you were the pharmacist in charge.

The investigated member contested all the allegations set out above.

III. PRELIMINARY MATTERS

1. Adjournment requests

- 7. The hearing of this matter was originally scheduled for April 20-23, 2021. The parties agreed to adjourn those hearing dates pending Mr. Parikh's ongoing parallel criminal matter. The hearing was subsequently set down for September 28 to October 1, 2021.
- 8. On August 26, 2021, by teleconference, the Hearing Tribunal considered a further request from Mr. Parikh to adjourn the hearing. The Hearing Tribunal granted the adjournment for the following reasons:
 - Mr. Parikh's criminal proceeding arising from the same conduct that gives rise to this hearing was further delayed to December 2021 due to unavoidable and unanticipated reimplementations of Covid-19 restrictions in the courts.

- The Hearing Tribunal did not view Mr. Parikh as seeking to unduly delay the hearing. The delay of the criminal matter was beyond his control and due to the seriousness of the charges, in fairness to him, he requested the opportunity to conclude the criminal trial prior to appearing before this conduct hearing. The matter was then set down for June 20-24, 2022.
9. On June 17, 2022, the Hearing Tribunal met by videoconference to consider Mr. Parikh's request for an adjournment of the hearing. The basis for the adjournment request was that Mr. Parikh's lawyer was no longer able to act for Mr. Parikh and the lawyer's withdrawal came only three days before the commencement of the hearing. Mr. Parikh sought the adjournment so he could retain and instruct new counsel.
 10. In arriving at its decision to grant the adjournment request, the Tribunal considered that it must balance the right of an investigated member to a fair hearing with the desirability of concluding the professional discipline process in an expeditious fashion. The Tribunal considered whether a refusal to grant the adjournment request would result in a breach of procedural fairness.
 11. The Tribunal observed that a refusal to grant the adjournment request would have resulted in Mr. Parikh needing to represent himself in a contested hearing involving serious matters which could result in serious consequences or would have resulted in Mr. Parikh being represented by a lawyer who did not have adequate time to prepare for the hearing. Either of these situations would have been unfair to Mr. Parikh. Procedural fairness requires that Mr. Parikh be able to put his case squarely before the Tribunal with his choice of counsel.
 12. The Tribunal recognized that this was a subsequent request for an adjournment by Mr. Parikh and that granting a further adjournment would delay this matter further. However, the Tribunal also noted that the previous adjournment request was due to Mr. Parikh's criminal proceedings and that the adjournment request was not opposed by the Complaints Director. This adjournment request arose for new and previously unforeseen reasons. Further, Mr. Parikh's practice permit remains suspended pursuant to s. 65 of the *Health Professions Act* which limits any ongoing risk to members of the public. As there is no undue concern for public safety, the urgency of proceeding with the hearing was reduced.
 13. With regards to the potential prejudice to the memories of witnesses, the Tribunal acknowledged that this was a concern. However, given the passage of time that has already occurred, the Tribunal concluded that any loss of memory may have already occurred and that a brief adjournment is unlikely to have a further significant impact. With respect to preparing for the hearing again and a reconsideration by witnesses of the need to attend and provide evidence, the *Health Professions Act* allows witnesses to be compelled to attend and this mitigates against such risk. While there may be some prejudice for the witnesses and the Complaints Director, the Tribunal concluded that the prejudice to Mr. Parikh was greater if the hearing proceeded as scheduled. Further, while there may be some concern from the public regarding the hearing process, the Tribunal concluded that the public would have greater concerns about the integrity of the discipline process if Mr. Parikh was required to proceed with the hearing after the withdrawal of his lawyer on the eve of the hearing.

14. This was a third request for an adjournment. However, the Complaints Director did not oppose the adjournment given that, although the matter is serious, the risk of harm to the public was mitigated by the fact that Mr. Parikh's practice permit had been suspended on an interim basis pursuant to section 65 of *Health Professions Act*.
15. The hearing then proceeded as scheduled on November 9, 10, 17 & 18, 2022, with written submissions following in January and February 2023.

2. Application to close the hearing

16. On October 31, 2022, the Hearing Tribunal met by videoconference to consider an application by the Complaints Director to close the hearing to the public. In accordance with sections 78(1)(a)(iii) & (iv) of the *Health Professions Act* ("HPA"), Ms. Chisholm sought a direction from the Hearing Tribunal to close the hearing during any portions of the hearing that include witness testimony or require the parties to refer to a third party's confidential personal, health, property or financial information. Ms. Chisholm acknowledged that, in practice, this may require the majority of the hearing to be closed to the public.
17. Ms. Chisholm stated that the allegations in this matter are serious. If proven, four out of five allegations may be found to be sexual abuse or sexual misconduct as defined under the *Health Professions Act*. The individuals listed as Individuals A to D in the Notice of Hearing will be called to testify and it is anticipated that during their testimony, they will be asked questions that require them to reveal their confidential personal, health, property or financial information. Ms. Chisholm also submitted that the presence of members of the public, or the ability for the public to review personally identifying information in the transcript at a later date, could compromise the ability of one or more of these witnesses to testify.
18. Ms. Chisholm further requested that any reference to Individuals A to D be sufficiently redacted from the transcript and the Hearing Tribunal's written reasons for decision in order to protect their privacy.
19. The Investigated Member took no position on the application to close the hearing.
20. The authority for the Hearing Tribunal to close the hearing is set out in section 78 of the HPA. Sections 78(1)(a)(iii) and (iv) permit the Hearing Tribunal to close the hearing where not disclosing a person's confidential personal, health, property or financial information outweighs the desirability of having the hearing open to the public, and where the presence of the public or complainant could compromise the ability of a witness to testify.
21. In making its decision to close the hearing, the Hearing Tribunal balanced the public interest in holding open and transparent hearings against the need to protect the privacy and safety of alleged victims of sexual assault who have come forward to participate in professional discipline proceedings. Both are important values.
22. The Hearing Tribunal accepted that being required to share information about a potential sexual assault or sexual misconduct is inherently a difficult and sensitive task. The Hearing

Tribunal further accepted that, in testifying in these proceedings, Individuals A to D will be required to share at least confidential personal information and potentially confidential health information. The Hearing Tribunal was also mindful of the fact that many victims of sexual assault or sexual misconduct experience trauma and it is important to protect alleged victims from further victimization through the hearing process.

23. The Hearing Tribunal therefore determined that protecting the information that will be shared by Individuals A to D outweighs the desirability of having the hearing open to the public. Further, the Hearing Tribunal accepted that having to share such personal and sensitive information before members of the public attending at the hearing could compromise the ability of individuals A to D to testify.
24. In assessing whether to close the hearing, the Hearing Tribunal also considered whether it could close only portions of the hearing (for example, the portions of the hearing where individuals A to D are testifying, for example) rather than the whole hearing. However, given the nature of the allegations, it seems likely to the Hearing Tribunal that other witnesses (for example, the investigated member) will also provide testimony or other evidence that relates to the confidential personal information of Individuals A to D. In the end, the Hearing Tribunal saw no other practical option to protect the privacy and safety of Individuals A to D other than closing the entire hearing.
25. The Hearing Tribunal likewise directed that the transcript arising from the hearing and the written reasons for decision of the Hearing Tribunal should be sufficiently redacted or anonymized in a manner that protects the identity and privacy of Individuals A to D.
26. The Hearing Tribunal found that, despite the closed hearing, the public interest would still be served as the written reasons for decision of the Hearing Tribunal are publicly available and the relevant facts of the matter are set out within these reasons. While the identity of individuals A to D will not be disclosed within the reasons, the public will nevertheless be able to learn, through these reasons, the nature of the testimony and the outcome of this case.

IV. EVIDENCE

1. Joint Book of Exhibits

27. The hearing tribunal was provided with a Joint Book of Exhibits. The Book of Exhibits was marked as Exhibit 1 and contained the following documents:
 - A. Amended Notice of Hearing dated July 7, 2022
 - B. Notice to Attend and Produce (J. Krempien)
 - C. Notice to Attend and Produce (B. Acton)
 - D. Notice to Attend and Produce (Individual D)
 - E. Notice to Attend and Produce (Individual C)

F. Notice to Attend and Produce (Individual B)

G. Notice to Attend and Produce (Individual A)

H. Investigation Records:

1. Complaint Reporting Form from Individual A received March 31, 2020.
2. Memo from J. Krempien to file dated March 31, 2020, regarding telephone conversation with Individual A.
3. Memo from J. Krempien to file dated April 1, 2020, regarding telephone conversation with Cpl. A [REDACTED].
4. Complaint Referral Form dated April 1, 2020.
5. Memo from J. Krempien to file dated April 1, 2020, regarding decision to conduct investigation into written complaint.
6. Memo from L. Daigle to file dated April 1, 2020, regarding email address of Individual A.
7. Letter from J. Krempien to Individual A dated April 1, 2020, enclosing information on patient relations program.
8. Letter from J. Krempien to [REDACTED] dated April 1, 2020, regarding request for information.
9. Emails between J. Krempien and Individual A dated April 2, 2020, regarding investigation.
10. Memo from J. Krempien to file dated April 2, 2020, regarding telephone conversation with Cpl. A [REDACTED].
11. Letter from J. Krempien to A. Parikh dated April 2, 2020, regarding request for response and enclosing complaint form.
12. Letter from J. Krempien to Committee Members dated April 2, 2020, regarding request for suspension of practice permit.
13. Letter from J. Krempien to A. Parikh dated April 2, 2020, regarding request for suspension of practice permit.
14. Email from M. Morley to A. Parikh dated April 3, 2020, regarding request for suspension of practice permit.
15. Memo from J. Krempien to file dated April 3, 2020, regarding telephone conversation with A. Parikh.
16. Email from A. Parikh to L. Daigle, M. Morley, and J. Krempien dated April 3, 2020 enclosing:
 - Written response of A. Parikh to ACP;
 - Letter from [REDACTED] dated April 3, 2020, regarding allegations of theft;
 - Letter from [REDACTED] dated April 3, 2020, regarding allegations of theft;
 - Merchandise receipt dated April 3, 2020; and

- Pharmacy statements of account of Individual A.
17. Email from M. Morley to A. Parikh dated April 4, 2020, regarding acknowledgement of receipt of written response.
 18. Letter from Committee Members to J. Krempien and A. Parikh dated April 6, 2020, regarding decision to suspend practice permit.
 19. Letter from J. Krempien to A. Parikh dated April 7, 2020, regarding request for further information and confirmation of reception.
 20. Letter from D. Lee to A. Parikh dated April 7, 2020, regarding details of suspension of practice permit.
 21. Emails between Individual C and J. Krempien dated April 14, 2020, enclosing text screenshot regarding A. Parikh's presence at [REDACTED] Pharmacy.
 22. Email from A. Parikh to J. Krempien and L. Daigle dated April 13, 2020, enclosing letter regarding written response to request for further information.
 23. Emails between Individual A and J. Krempien dated April 2-14, 2020, enclosing photo of A. Parikh's vehicle at Pharmacy.
 24. Email from J. Krempien to A. Parikh dated April 14, 2020, regarding presence of A. Parikh at [REDACTED] Pharmacy.
 25. E mails between J. Krempien and A. Parikh dated April 14, 2020, regarding presence of A. Parikh at [REDACTED] Pharmacy.
 26. Emails between J. Parikh and J. Krempien dated April 14, 2020, regarding presence of A. Parikh at [REDACTED] Pharmacy.
 27. Email from D. Lee to J. Parikh dated April 15, 2020, regarding undertaking of Temporary Pharmacist in Charge.
 28. E mails between A. Parikh and J. Krempien dated April 16, 2020, regarding response to undertakings.
 29. E mails between [REDACTED] and L. Daigle dated April 17 and 20, 2020, regarding reference for A. Parikh.
 30. E mails between [REDACTED] and L. Daigle dated April 18 and 20, 2020, regarding reference for A. Parikh.
 31. E mails between [REDACTED] and L. Daigle dated April 18 and 20, 2020, regarding reference for A. Parikh.
 32. Emails between [REDACTED] and J. Whissell dated April 19 and 20, 2020 regarding reference for A. Parikh.
 33. E mails between Individual A and J. Krempien dated April 20, 2020, enclosing photo of A. Parikh's vehicle outside of [REDACTED] Pharmacy.
 34. Emails between [REDACTED] and L. Daigle dated April 20 and 21, 2020, regarding reference for A. Parikh.

35. Emails between [REDACTED] and L. Daigle dated April 21 and 22, 2020, regarding reference for A. Parikh.
36. Letter from [REDACTED] to ACP received April 27, 2020, enclosing screenshots of Facebook pages of [REDACTED] Pharmacy, Individual C, and Individual A.
37. Letter from [REDACTED] and [REDACTED] dated received April 27 regarding reference for A. Parikh.
38. Note to File from J. Krempien dated May 7, 2020, enclosing email from J. Krempien to [REDACTED] dated May 1, 2020, requesting update.
39. Letter from J. Krempien to Individual B dated May 14, 2020, enclosing Patient Relations Program information.
40. Letter from J. Krempien to [REDACTED] dated May 14, 2020, regarding follow-up to request for information.
41. Email from [REDACTED] to J. Krempien dated May 22, 2020, enclosing letter of response from [REDACTED] dated May 7, 2020, medication list of Individual A, and log of PHN/ULK access.
42. Notes to File from J. Krempien dated May 22, 2020, regarding telephone conversation with [REDACTED] and email from [REDACTED]
43. Email from [REDACTED] to J. Krempien dated June 1, 2020, enclosing medication list of Individual A.
44. Letter from B. Acton to J. Krempien received June 8, 2020, regarding request for patient information of Individual C.
45. Letter from J. Krempien to Individual C dated June 8, 2020, enclosing Patient Relations Program information.
46. Letter from J. Krempien to [REDACTED] dated June 8, 2020, regarding request for patient information of Individual C.
47. Emails between [REDACTED] and J. Krempien dated June 26, 2020, regarding request for return of A. Parikh to practice.
48. Email from [REDACTED] to J. Krempien dated June 30, 2020, enclosing response to J. Krempien's letter dated May 14, 2020, PIN record and Netcare Audit Log.
49. Email from [REDACTED] to J. Krempien dated June 30, 2020, enclosing response to J. Krempien's letter dated June 8, 2020, PIN record and Netcare Audit Log.
50. Letter from J. Krempien to Individual A dated July 7, 2020, regarding investigation update.
51. Letter from J. Krempien to Individual A dated August 20, 2020, regarding investigation update.
52. Falcongate Investigation Report dated August 14, 2020, including:
Appendix A ACP Code of Ethics

- Appendix B ACP Standards of Practice for Pharmacists and Pharmacy Technicians
- Appendix C ACP Standards of Practice – Sexual Abuse and Sexual Misconduct
- Appendix D Complaint Reporting Form of Individual A dated August 1, 2020
- Appendix E Text messages between A. Parikh, [REDACTED] and Individual A dated March 10, 2017 to January 4, 2020
- Appendix F Handwritten Notes of Individual A
- Appendix G Image of video of prescription bottle of Individual A from [REDACTED] Pharmacy
- Appendix H Consent form of Individual A dated May 27, 2020 allowing investigators to contact her physicians
- Appendix I Texts between Individual C and A. Parikh dated March 6, 2020 to March 13, 2020
- Appendix J Documents from [REDACTED] Pharmacy regarding employee charge accounts
- Appendix K Photographs of gifts provided by Individual A to A. Parikh
- Appendix L Transcript of interviews with Individual A, dated May 8 and July 7, 2020
- Appendix M Transcript of Interview with Individual C, dated June 8, 2020
- Appendix N Transcript of interview with Individual B, dated May 13, 2020
- Appendix O Transcript of interview with Individual D, dated June 26, 2020
- Appendix P Transcript of interview with [REDACTED] dated July 8, 2020
- Appendix Q Transcript of interview with [REDACTED] dated August 4, 2020
- Appendix [REDACTED] Transcript of interview with A. Parikh, dated June 18, 2020
- I. ACP Standards of Practice
- J. ACP Standards for the Operation of Licensed Pharmacies
- K. ACP Standards of Practice for Pharmacists and Pharmacy Technicians
- L. ACP Code of Ethics
- M. *Pharmacy and Drug Act*, RSA 2000, c P-13
- N. *Health Professions Act*, RSA 2000, c H-7

Exhibit 2 – December 15, 2021 Facebook post.

2. Oral Testimony

(a) Witnesses for the Complaints Director

(i) Evidence of James Krempien, Complaints Director

28. Mr. Krempien is the Complaints Director of the ACP and has been in that role since 2008. Mr. Krempien reviewed his background and experience, including experience conducting investigations generally and investigations involving sexual abuse or misconduct.
29. Mr. Krempien testified to receiving a complaint from Individual A on March 31, 2020, regarding the conduct of Mr. Parikh (the “Complaint”). He outlined the steps taken following his receipt of the Complaint along with the relevant documents, which included: the decision to conduct an investigation and appoint Mr. Robert Acton, from the company Falcongate, as an investigator; his and Mr. Acton’s role in the investigation; making a recommendation for an interim suspension, which was accepted and imposed on Mr. Parikh by the ACP Committee under s. 65 of the HPA; information he gathered and received during the investigation; and his decision to refer the matter to the Hearing Tribunal.
30. Mr. Krempien confirmed that all of Individuals A, B, C and D were both employees of, and patients at, the Pharmacy.
31. Mr. Krempien’s evidence addressed the inquiries made, and information obtained from the parallel criminal investigation into Mr. Parikh being conducted by the RCMP. On cross-examination, Mr. Krempien confirmed he was aware that criminal charges of sexual assault and forcible confinement were laid against Mr. Parikh but were subsequently dropped.
32. Mr. Krempien explained that Mr. Acton had conducted the bulk of the “on the ground” investigation and in particular, the in-depth interviews with the witnesses. Mr. Krempien’s role was commencing the investigation and gathering the initial documents.
33. Mr. Krempien further explained that the ACP Standards of Practice: Sexual abuse and sexual misconduct came into effect in April 2019. Mr. Krempien’s evidence was that prior to the Standards of Practice: Sexual abuse and sexual misconduct coming into effect, the provisions in the existing standards and Code of Ethics outlined in the Amended Notice of Hearing would be relevant to the alleged conduct at issue.
34. Mr. Krempien testified that there is a power imbalance between the licensee of a pharmacy, here Mr. Parikh, and the individuals in question who were not just patients of the Pharmacy, but also employees of Mr. Parikh.

(ii) Evidence of Robert Acton, Investigator

35. Mr. Robert Acton is a registered psychologist and was appointed by the ACP Complaints Director, Mr. Krempien, to investigate the Complaint. Mr. Acton outlined his experience and training relevant to his appointment as investigator in the matter before the Hearing

Tribunal. This included having worked as an investigator for the College of Alberta Psychologists and, at times, as an acting Complaints Director for that College, as well as his experience conducting formal investigations related to sexual abuse and misconduct under the company, Falcongate, which he formed with other individuals with relevant experience.

36. Mr. Acton testified that Individual A reported that Mr. Parikh had threatened to rape her if she did not have sex with him and that she gave into these pressures and had sex with him for approximately a year at the rate of twice per week. Individual A also reported that she had gone to the RCMP and her physicians about what happened. She also relayed that Mr. Parikh drank alcohol at the pharmacy.
37. Mr. Acton interviewed Individual A's physician who confirmed to Mr. Acton that Individual A attended at the emergency room on December 12 and 17, 2019 and that she described inappropriate advances by her employer, the pharmacist (Mr. Parikh). The physician reported that Individual A was seen by his physician assistant on February 20, 2020, and on that date, she described the harassment she was experiencing from Mr. Parikh in more detail. She then got tested for a sexually transmitted disease on February 21, 2020.
38. Mr. Acton stated that for a person who is experiencing trauma it can sometimes be easier to speak to a professional than somebody personal. In this case, Mr. Acton considered that when this had been going on for a year, it's common for people to ask why the individual hasn't yet told anyone. However, professionals are often taught not to ask that question and to handle it differently. On that basis, Mr. Acton didn't put much weight on the delay in disclosure.
39. Mr. Acton also interviewed Mr. Parikh who denied all the allegations. Mr. Parikh told Mr. Acton that Individual A owed the Pharmacy money, and this could be a reason why she was raising allegations of sexual abuse. When asked about this, Individual A acknowledged that she was blindly charging things to her charge account and that she felt that this was a way to get back at Mr. Parikh. Mr. Parikh had never asked her to pay back the money until the charges came forward.
40. In response to Individual A's account, Mr. Parikh also pointed out that he had a good social relationship with Individual A and her husband and questioned how that would be the case if Mr. Parikh was sexually abusing her. He also pointed out that Individual A had given him gifts and suggested that she would not have been giving him gifts if there was sexual abuse.
41. Mr. Acton indicated that although he was not an expert, in his experience, interactions between an abuser and a victim can be very odd in a common-sense manner. Accordingly, giving gifts to somebody may occur. Mr. Acton testified that on this basis, it cannot be assumed that Individual A giving Mr. Parikh gifts is an indication that there is no abuse.
42. Individual A indicated that she had not spoken with Individual B about sexual encounters with Mr. Parikh before Individual A reported the sexual allegations. Individual A stated that none of the sexual encounters with Mr. Parikh were consensual. However, Mr. Acton

indicated that Individual B stated that Individual A reached out to her about the sexual encounters with Mr. Parikh before the RCMP reached out to Individual B.

43. Individual B described a situation where Mr. Parikh wanted her to perform oral sex in exchange for a \$50 advance on her paycheque. She did perform oral sex on him at that time. She reported that after work when other employees had left the building, Mr. Parikh would clean himself and then have sex with her in the back of the pharmacy. On one occasion, Mr. Parikh paid her \$500 and he would also intermittently pay her different amounts of money such as \$75. This went on for a period of time in 2015 and 2016 in the back room of the pharmacy. Individual B stopped having sex with Mr. Parikh when she got a boyfriend. Individual B reported to her boyfriend that she was being sexually abused by Mr. Parikh. Mr. Acton spoke to Individual B's boyfriend, and he confirmed that she had disclosed the abuse to him.
44. Individual C reported that Mr. Parikh would stare at her name badge on her chest, and she was quite angry with him. She also reported that Mr. Parikh would allow his friend, [REDACTED] into the pharmacy and the two of them would look at her body and then laugh and comment, which made her uncomfortable. Individual C also owed money to the Pharmacy on a charge account.
45. Individual D did not describe any sexual interactions with Mr. Parikh. However, he would invite her to go for drinks regularly and she was uncomfortable with that. He also told her it was okay to have an affair and cheat on your wife.
46. On cross-examination, Mr. Acton confirmed that following the submission of the investigation report, he became aware that the charges of sexual assault and forcible confinement coming out of the RCMP investigation into Mr. Parikh were dropped. When asked if he felt that sexual abuse commencing after years of working together without incident was unusual, Mr. Acton replied that it was not necessarily unusual, particularly if Mr. Parikh had any significant stressors going on at the time that could have influenced his behavior. Mr. Acton noted that Individual A was also under financial strain which is why she continued to work at the Pharmacy.
47. Mr. Acton also confirmed on cross-examination that Individual B would not participate in a second interview with him. Individual B was quite anxious and was not really wanting to participate.
48. On re-direct, Mr. Acton confirmed that victims of sexual misconduct can conflate events and that their accounts may be revealed gradually over time. It may be difficult for victims to disclose a whole story at the outset, but more details may be revealed as they feel more trust in the person they are disclosing to. Mr. Acton also confirmed that the use of emojis or smiley faces in a text string with an alleged abuser should not lead one to assume that sexual abuse has not occurred.

(iii) Evidence of Individual A

49. The Complaints Director called Individual A, who is the Complainant. Individual A lives in a small town in Alberta with her husband and two children.

(A) Employment and Services received at the Pharmacy.

50. Individual A started working at the Pharmacy in 2009; she worked for the prior owner of the Pharmacy and then for Mr. Parikh when he purchased the business and became the Pharmacy licensee.
51. Individual A was also a patient of Mr. Parikh's; she received professional services from him such as prescriptions and immunizations like the flu shot. The Pharmacy was Individual A's main pharmacy and it therefore had all of her business. This included prescriptions and flu shots for herself and her children.
52. Individual A initially worked in the front-end store part of the Pharmacy. She worked in the front-end store for approximately 14-15 years. About two years before leaving work at the Pharmacy in March 2020, Individual A moved to the pharmacy side where she assisted with prescriptions and pharmacy patients.
53. When Individual A was working as a pharmacy assistant, the Pharmacy closed at 6pm. Most of the time there were two employees working at the Pharmacy until it closed, but not all the time. Individual A would work at the Pharmacy after hours assisting Mr. Parikh in the pharmacy doing inventory, administering flu shots, or working on Breyer horse inventory or other personal projects. Individual A's husband would sometimes phone to speak to her around closing time, but this did not occur all the time.

(B) Social Relationship with Mr. Parikh

54. Mr. Parikh was friends with Individual A's husband. They hung out almost every week for approximately 4 years. Individual A also considered Mr. Parikh a friend. She, her husband and Mr. Parikh would go for lunch and dinners together and when Individual A and her family were camping, Mr. Parikh would come to the campground and hang out with them. It was a casual, social friendship that grew out of Individual A working with Mr. Parikh. Individual A does not think she ever suggested that her husband and Mr. Parikh should be friends.

(C) Evidence regarding Alleged Sexual Abuse and Misconduct

55. The conduct forming the basis of Individual A's complaint to the ACP began when Individual A and Mr. Parikh were doing inventory one evening after the Pharmacy was closed. Mr. Parikh had been drinking, which he usually started to do around 5:00 pm each night before the Pharmacy closed. Individual A stated that Mr. Parikh usually drank vodka or beer. When asked who suggested they drink while doing inventory, Individual A stated that it was likely Mr. Parikh, but she does not have a clear recollection.

56. Mr. Parikh was counting the inventory while Individual A was typing the information into the computer. Mr. Parikh went to the washroom and when he returned, he stood by Individual A and told her he had just brushed his teeth. Individual A responded, "that's really nice of you, I guess" to which Mr. Parikh asked, "can I have a kiss?" and Individual A replied "no, absolutely not, that it was inappropriate" before leaving the store shortly thereafter. The following day, Mr. Parikh apologized to Individual A and told her that "it was due to the alcohol". After this, Individual A moved on and tried to let "bygones be bygones".
57. Individual A could not recall the date this occurred; however, in cross-examination Individual A confirmed it was around October 2018, stating it occurred right around "the flu shot season". In cross-examination, Individual A testified that in October 2018 she noticed that sometimes Mr. Parikh would touch her hand or brush against her while walking past her when they were working late. Individual A thought it was accidental until the evening Mr. Parikh asked for a kiss. Before this conduct in October 2018, Individual A indicated Mr. Parikh's behavior was "strictly professional".
58. Sometime after the evening where Mr. Parikh asked for a kiss and following Mr. Parikh's return from a trip to Las Vegas, Individual A and Mr. Parikh were in the kitchen after the Pharmacy closed. Individual A described the kitchen as having a sink with the fridge on the right of it. Individual A was at the sink washing the dishes from the day while Mr. Parikh sat on a chair. On direct examination, Individual A indicated that she made conversation with Mr. Parikh and asked how his vacation had been and Mr. Parikh said, "I spent every night masturbating to the thought of you". When Individual A attempted to leave the kitchen, Mr. Parikh got up from the chair and blocked Individual A by putting his hand on the fridge and tried to kiss her. On cross-examination, Individual A confirmed that Mr. Parikh asked her for a hug because he was stressed and she backed away from him, then Mr. Parikh pinned her to the fridge, tried to kiss Individual A and told her that he masturbated to the thought of her.
59. Mr. Parikh then told Individual A that if she did not have sex with him, he would rape her. Individual A felt that "shutting off my brain and just going along with it would be a lot better than forcibly take (sic) me". She then recalls Mr. Parikh telling her to go to the storage room, which is a room in the back of the Pharmacy to the left of the kitchen. Mr. Parikh set some sweaters down on the floor of the storage room and made Individual A lie down; he took off her pants, got on top of Individual A and had sexual intercourse with her. After, Mr. Parikh got up and went to the bathroom and so did Individual A before she left the Pharmacy. Individual A stated that she would have gone home and likely "showered and tried to ignore everything that had just happened".
60. On cross-examination, the notes Individual A took on February 19, 2020 at Exhibit 1, Tab H52 Appendix F were put to her. In her notes, Individual A described this conduct as occurring over two events:

- One evening after work when Individual A was tidying the kitchen, Mr. Parikh asked for a hug because he was stressed, she backed away and he pinned her to the fridge and tried to kiss her, saying he masturbates to the thought of her; and
- On a subsequent evening after work, Mr. Parikh told her he would rape her if she did not submit and if she told anyone he would deny it and be believed.

61. When this was put to her, Individual A testified that her memory around that time is foggy; she has blocked a lot of that time so she cannot recall exact moments and how things occurred. However, Individual A indicated that the notes at Appendix F are the most accurate as they were made closer to the events in question.
62. Individual A was unable to recall the date the first instance of sexual intercourse happened, but it would have been about a year before she made her complaint to the ACP. Mr. Parikh continued to have sexual intercourse with Individual A “two or three times a week for that entire year”. It stopped around the time Individual A disclosed the conduct to her family physician on December 17, 2019 (outlined further below).
63. The sexual intercourse always occurred in storage room and when no one else was in the Pharmacy. Mr. Parikh never wore a condom. On cross-examination, Individual A explained that she had never seen Mr. Parikh’s penis because it was always dark when they had sex. When asked how she could discern that Mr. Parikh was circumcised, which she told Mr. Acton during the investigation, or why she insinuated in her text message to Mr. Parikh that he had a small penis, Individual A indicated this was based on having felt Mr. Parikh’s penis.
64. Individual A described a “telltale sign” that Mr. Parikh intended on having sex with her was him going to the bathroom and coming out “reeking of Axe” body spray. When this happened, Individual A “would know that it was going to happen. I would have to stay and do that.”
65. Individual A never initiated sex with Mr. Parikh. She would try to say no to Mr. Parikh, make an excuse or call her husband when the Pharmacy closed but when she did so, Mr. Parikh would be “mean and make my life awful” the following day. Individual A felt that she either had to do what Mr. Parikh said or “be treated like absolute garbage”. Mr. Parikh would call Individual A stupid or dumb in front of her co-workers, be “very nitpicky”, and make fun of her in front of customers. Individual A understood that she was being punished for not having sex with Mr. Parikh.
66. During cross-examination, counsel for Mr. Parikh put to Individual A her Facebook post from December 15, 2021 regarding her experience with Mr. Parikh – identified as Exhibit 2. Regarding the statement made that when Individual A did not do what Mr. Parikh said, he would rape her, Individual A testified that if she did not consent to having sex with Mr. Parikh, “he would just forcibly rape me”. When Individual A was asked if there were occasions that she said no to sex and Mr. Parikh would have sex with her anyways, Individual A testified “There were times when I didn’t want to be there, yes. There were times when I would say no, and he would say too bad”.

67. Individual A continued working at the Pharmacy despite Mr. Parikh's conduct because she needed to keep her job to support her family, and it is hard to find a job in such a small town. During the year the conduct was occurring, Individual A did not tell anyone, including her husband and co-workers. Mr. Parikh told Individual A that no one would believe her "because everyone loves him and I was just me". Individual A would interact with her husband and co-workers as normal as it was the "best [she] could do to make everything seem okay".
68. Individual A also continued to receive professional services from Mr. Parikh while the conduct at issue was occurring; including bringing her children to the Pharmacy to receive flu shots or have medical appointments with Mr. Parikh. Individual A indicated the Pharmacy remained her main pharmacy and she felt it was safe to bring her children to see Mr. Parikh for services if she was there.

(D) Other interactions with Mr. Parikh during the relevant period

69. On cross-examination, Individual A confirmed that during the period she was having sex with Mr. Parikh, he and her husband continued to hang out and they continued to invite Mr. Parikh to join them at their campsite.
70. In reviewing the text messages with Mr. Parikh at Exhibit 1, Tab H52, Appendix E, Individual A confirmed that by the time of a text message dated January 2, 2019, Mr. Parikh was having sex with her. In direct examination, Individual A was asked why she would use an emoji when corresponding with Mr. Parikh and why she continued to send Mr. Parikh text messages of a personal nature during this time period.
71. Individual A explained that she uses emojis "for everything, that is just how I am" and she did not know why she would continue to text with Mr. Parikh on personal matters, she may have been trying to make it seem that everything was okay when it wasn't. Individual A indicated that is how she communicates.
72. In direct examination, Individual A referred to text messages between her and Mr. Parikh from April 19, 2019 where they are communicating about attending the pub. Individual A explained that Mr. Parikh owned a pub in Calgary and invited Individual A and her family to attend for her son's birthday. Individual A recalls attending the pub but leaving soon after as there was no room for her and her family. On cross-examination, Individual A confirmed that during the period from January to July 2019 she and her family went to Mr. Parikh's restaurant in Calgary twice, once was for her son's birthday.
73. On cross-examination, Individual A confirmed that she and other Pharmacy staff all pitched in on a Christmas card and gift for Mr. Parikh in December 2018. She could not recall giving Mr. Parikh a Christmas card and gift in November 2019, but it was possible.

(E) Initial Disclosure of Mr. Parikh's Conduct

74. Individual A was in a very dark place as a result of the conduct. Over time, Individual A realized that she could no longer work at the Pharmacy because the conduct would not stop, and she needed some assistance.
75. Sometime before December 12, 2019 (when Individual A attended the emergency room), Individual A reached out to Individual B for support to see if she was the only one who Mr. Parikh had “taken advantage of”. On cross-examination, Individual A confirmed that Individual B previously worked at the Pharmacy until around 2016 and they maintained an on-and-off friendship since that time.
76. Individual A contacted Individual B by text and asked if anything happened to Individual B when she worked at the Pharmacy. Individual B indicated something had happened and Individual A understood she may not be the first person to have the experience she did. Individual A indicated that during her communication with Individual B, she kept the details of her experience with Mr. Parikh fairly vague. Individual B was also fairly vague in her description of what she experienced with Mr. Parikh but let on a bit more detail than Individual A provided.
77. After corresponding with Individual B, Individual A reached out to Individual D. While Individual D was limited in her correspondence with Individual A, Individual D’s response indicated she experienced something similar to Individual A.
78. On December 12, 2019, Individual A attended the emergency room to seek help and understand her options regarding Mr. Parikh’s conduct. At that time Individual A saw a doctor and explained some of what was going on with Mr. Parikh. The doctor recommended that she take the weekend off to see if that would make her feel better.
79. Individual A took the weekend off work. After the weekend, Individual A did not feel better and therefore saw her family physician on December 17, 2019. Individual A initially saw a resident and told them a little bit more about Mr. Parikh’s conduct before the resident became concerned and brought the doctor into the appointment. They supported Individual A taking some time away from work and she took a short time away.
80. Individual A’s speaking with her doctor represented a “breaking point”, following which she did not have sex with Mr. Parikh. She also stopped all “non-professional contact” with Mr. Parikh.
81. Between the emergency room visit on December 12, 2019 and the visit to her doctor on December 17, 2019, Individual A spoke to her co-workers about the conduct. One morning, Individual A gathered her co-workers and told them a “watered down” version of what was going on in the hopes they would support and help her with the situation.
82. Individual C, who worked in the same role as Individual A, provided support to Individual A and agreed to take steps to ensure neither of them was alone with Mr. Parikh, such as taking lunch together and leaving at the same time. Individual A explained that Individual C told her some things that indicated they were “sort of kindred spirits in a really awful situation”.

83. On cross-examination, Individual A indicated she told a watered-down version and not the “whole story” because when Individual B was working at the Pharmacy there were rumours going around (amongst customers and staff) that Individual B and Mr. Parikh had a relationship, resulting in co-workers not being nice to Individual B and labelling her “dirty” and “a whore”. Individual A did not want to be labelled like that. She therefore told a watered-down version of the event where Mr. Parikh approached her inappropriately and tried to kiss her; she did not disclose that they had been having sex.
84. Individual A addressed the messages between her and Mr. Parikh from December 17, 2019 where she advised Mr. Parikh that she was taking a leave of absence. Individual A explained that she was texting with Mr. Parikh because she wanted him to stop his conduct and apologize to her in the hopes that things could “go back to normal”, which did not happen. Regarding her text indicating “Everything is not okay. You can't do what you did and then turn mean when you don't get what you want...”, Individual A was referring to the fact that when she made an excuse or could not be at the Pharmacy to have sex with Mr. Parikh, the next day he would be mean to her to punish her.
85. On cross-examination, Individual A denied that Mr. Parikh’s text messages from December 17, 2019 were related to Mr. Parikh’s concern that he might have said or done something at the Pharmacy Christmas party to upset Individual A. She denied that the text messages from that day involve her and Mr. Parikh speaking about different things.
86. Regarding the text messages the following days of December 18-22, 2019, Individual A testified that Mr. Parikh was trying to “throw money” at her to make things better, maintained he did nothing wrong because he was “mentally upset” and drunk, and made excuses for doing what he did. Individual A clarified that in her reply to Mr. Parikh on December 20, 2019 where she stated, “You can't tell your 19 year old employee that they have a nice ass and then proceed to say it's okay (sic) to cheat on your wife as long as you love them”, she was referring to information she received from Individual D when she reached out to her regarding Mr. Parikh.
87. Individual A returned to work after December 22, 2019. Individual A reviewed the text messages with Mr. Parikh from January 2 - 4, 2020 where Individual A raised concerns with messages received from a co-worker, [REDACTED] who accused Individual A of trying to blackmail Mr. Parikh when she did not accept any money from him and returned to work because she needed the money “in order to survive”. In this time, Mr. Parikh texted her to advise he would help her out with her debt. Individual A confirmed she provided her text messages with [REDACTED] to Mr. Acton, and these are at Exhibit 1, Tab H52, Appendix E pp. 653-667.
88. When Individual A returned to work at the Pharmacy things did not get better, and she decided to make an appointment with her doctor’s physician assistant on February 20, 2020 because Individual A felt a woman could better understand her situation.
89. On February 19, 2020, the day before her appointment with the physician’s assistant, Individual A wrote down what had happened to her in a book; these notes are identified as Exhibit 1, Tab H52, Appendix F. Individual A clarified that the note regarding her speaking

“with two of the girls that have previously worked with him – this has happened before – one was barely 18 and the other he offered money for sexual favours” refers to her speaking with Individual D and Individual B.

90. At the appointment on February 20, 2020, Individual A gave the book to the physician’s assistant and asked her to read it because Individual A did not think she would be able to explain what happened aloud. Once the physician’s assistant reviewed the book, she advised Individual A to go to the RCMP and the ACP. The physician’s assistant pushed Individual A in the right direction, towards reporting to the RCMP and ACP, and gave her the support she needed.

(F) Report to RCMP

91. Individual A reported to the RCMP “the fact that I was raped” by Mr. Parikh. After making the report, the RCMP told Individual A to continue work at the Pharmacy as normal while they conducted their investigation and arrest Mr. Parikh without him knowing that would happen. Individual A did so.
92. Individual A testified that she did not understand the entirety of what happened as a result of her report to the RCMP but indicated the following understanding: Mr. Parikh was arrested and released the same evening; there was a “federal court case”, the outcome of which was Mr. Parikh “accepted a peace bond”; and the Crown prosecutor informed Individual A that she “didn’t have a chance”.
93. While Individual A was not supposed to say anything, she was informed that the prosecutor and Mr. Parikh’s lawyer talked and Mr. Parikh would drop “his side of things”, which Individual A understood to be the civil claim against her (discussed below), if she “provided that he take the peace bond instead of going after him”.
94. On cross-examination, when questioned on her Facebook post from December 15, 2021 (Exhibit 2), Individual A indicated that she published the post after Mr. Parikh accepted a peace bond. At the time, she believed this was a “victory” but later understood that was not the case. Individual A indicated that the Crown prosecutor did not explain the proceedings well and Individual A did not understand at the time what it meant. At the time of the Facebook post, Individual A did not understand that the charges against Mr. Parikh had been dropped.

(G) Leaving Work at the Pharmacy

95. Ultimately, Individual A left her employment with the Pharmacy in March 2020. Individual A does not have an independent recollection of when she left employment at the Pharmacy. However, on reviewing Mr. Krempien’s memo from the March 31, 2020, phone call with Individual A, Individual A confirmed her recollection of the call, that the contents of the memo represented the discussion had, and the reference to her having left work at the Pharmacy in March 2020 was correct.

(H) Charge Account and Breyer Horse Inventory

96. Individual A, like other Pharmacy staff, had a charge account at the Pharmacy where she could charge items from the Pharmacy store to her account and pay it back later. Individual A charged basic items to the account and gift cards. She explained that she received permission from Mr. Parikh to charge gift cards when her washer and dryer broke as she was tired of washing things by hand.
97. When she left work at the Pharmacy, the balance on Individual A's charge account was approximately \$6,000, which she did not pay off. After leaving employment, [REDACTED] contacted Individual A advising that they had found more charges that should have been on Individual A's charge account. While Individual A received notice from [REDACTED] that she owed a larger amount, she wanted to be "done with everyone at the Pharmacy" and therefore told [REDACTED] to "do what you're going to do and just leave me alone". When it was put to her that she owed the Pharmacy \$19,000 from her charge account, Individual A indicated that was the Pharmacy's position on what is owed. Individual A echoed that she received a message from [REDACTED] regarding a higher balance owing after she left, but no longer wanted any interactions with the Pharmacy.
98. On cross-examination, Individual A admitted to accruing a large debt on her charge account and not paying close attention to the amounts she was charging to the account. She admitted to blindly charging things to her account to get back at Mr. Parikh. On cross-examination, Individual A's evidence was that she did not think she ever entered amounts for a gift card to her charge account smaller than the actual value loaded onto the gift card. When asked on cross-examination whether she was under significant financial strain around the time she and her family moved into town in September/October 2019, Individual A indicated that was not the case.
99. Individual A confirmed that [REDACTED] had raised the issue of her charge account balance before she left employment in March 2020. However, Mr. Parikh always told Individual A that it was okay to ignore [REDACTED]. Individual A referred to the text messages between herself and Mr. Parikh where Mr. Parikh indicated what he thought of [REDACTED] and that Individual A need not pay [REDACTED] any attention. Individual A did not recollect any other Pharmacy staff speaking to her about her charge account balance.
100. Individual A confirmed that there was an amount from her charge account, possibly \$5,800, sent to a collections company to recoup around December 2019. Mr. Parikh paid off this amount sometime after Individual A returned to work in December 2019. Individual A denied asking Mr. Parikh to do so.
101. Mr. Parikh filed a civil claim against Individual A for \$16,000 arising from the balance owing on Individual A's charge account. The civil claim was unresolved as of the date Individual A gave evidence before the Hearing Tribunal.
102. On direct examination, Individual A indicated that her text message to Mr. Parikh from February 8, 2020 indicating her calculation of the cost of the Pharmacy's Breyer Horse inventory arose out of a discussion she had with Mr. Parikh where she offered to buy the

inventory. Breyer horses are model horses and a hobby of Individual A. Individual A and another individual had the idea for the Pharmacy to sell the Breyer horses.

103. Individual A would also sell the inventory bought by the Pharmacy and reimburse the Pharmacy for the sold items. Individual A denied that she owed the amount represented in her text message for inventory she had already taken from the Pharmacy. She explained that Mr. Parikh permitted her to take the inventory and charge the cost amount, as indicated in the February 8, 2020 text message, to her charge account. However, as Individual A was about to take the inventory to her car, [REDACTED] stopped her from doing so and she therefore returned the inventory to the Pharmacy. On cross-examination, Individual A agreed this offer was made while she owed around \$5,800 for her charge account and therefore could not afford the purchase.

(I) Complaint to the ACP

104. Individual A confirmed she made a complaint to the ACP regarding Mr. Parikh, which she identified as the Complaint Reporting Form received March 31, 2020, at Exhibit 1, Tab H1.
105. Regarding what prompted her to make the Complaint to the ACP, as indicated above, Individual A explained that around the time of making the complaint she was in a dark place. Individual A no longer felt like herself as Mr. Parikh's treatment of her was impacting her "whole life". Individual A wanted to get back to her former self and she did not want her experience to happen to others. Individual A indicated during her evidence that if she had not reported Mr. Parikh's conduct, she did not think she would be where she was at the time of the hearing. Individual A denied that the charge account balance had any impact or influence on her making the Complaint against Mr. Parikh.

(J) Discussion with Other Pharmacy Employees

106. Sometime after Individual A's visit with the physician's assistant on February 20, 2020, she went to Individual B's house where they spoke about their experiences. Individual A explained that she and Individual B had the same victim services representative (arising out of the report to the RCMP), and Individual B was very hesitant about coming forward. Individual A spoke with Individual B to assure her that it was going to be okay and encouraged her to cooperate with the RCMP. Individual A felt that because Individual B had just had a daughter, the gravity of the situation – that it could happen to someone else – hit home with Individual B.
107. Individual A has not discussed the testimony she would be providing to the Hearing Tribunal with Individual B; as of the date of the hearing before the Tribunal, they had not spoken in a couple of months.
108. Individual A confirmed that she talked with Individual C about her complaint to the ACP and the RCMP, but she has not discussed the evidence she would be providing before the Hearing Tribunal with Individual C.

109. Individual A has not spoken with Individual D beyond getting the one text message from Individual D. However, Individual A indicated that she had discussed or shared the testimony that she provided at the hearing before the Tribunal with Individual D.

(K) Individual A's Memory of the Events in Question

110. During direct examination, Individual A indicated that she had a foggy memory of the period when the alleged sexual abuse and misconduct occurred. As outlined above, Individual A indicated that she could not recall or had trouble with the dates of certain events or the order of events. As indicated above, sometimes she indicated her estimate of when something happened in relation to other events and in other instances, she could provide confirmation when documents were put to her to refresh her memory.
111. Individual A's statements from her December 15, 2021 Facebook post (Exhibit 2) that during that time she was "in reptile mode" and "honestly I have zero memories of that time" were put to her on cross-examination. Individual A testified that "reptile mode" refer to her having foggy memories of the year in question as she was barely functioning and was not herself during that time.
112. Individual A stated that the reference to "zero memories" is to the fact that she has no good memories from that period; she feels she missed out on a lot of fun moments and only remembers "being trapped and hurting and being alone". Individual A could not recall telling Mr. Acton she had no memories during that period and conceded it was possible she has many memories from the period in question. Individual A confirmed that she testified as to a variety of memories while giving her direct evidence.
113. On cross-examination Individual A confirmed she never took any photographs documenting Mr. Parikh's alleged abuse but indicated "hindsight is 20/20 though". She also confirmed there is nothing in her text messages with Mr. Parikh directly indicating a sexual relationship.

(L) Impact on Individual A

114. Individual A testified that the events had a great impact on her; she "lost herself" for two years. When the conduct occurred, she was not herself, barely functioning and her personality was gone. While she is normally a happy, nice person, having to "hide [her]self" turned her into someone mean and not herself. Individual A expressed that she missed out on a year of her children growing up and has no good memories from that time. Individual A described herself as being in a "very dark place" and being "a shadow of [her] former self" which prompted her to seek assistance.
115. Individual A remains on two anti-anxiety medications and carries a "bio pad-mat" with her. There are times when she is at work where situations happen, like a weird smell, that cause her to break down. She testified to having no trust in male superiors because she believes they will be the same as Mr. Parikh.

(M) Evidence regarding Allegations 3-6

116. Individual A has no direct knowledge of the conduct alleged in Allegation 3 regarding Individual B. Individual A's knowledge of this comes from Individual B telling her about it when Individual A approached Individual B around December 2019. Individual A testified that Individual B had not provided Individual A with the "entire story" of Individual B's encounters with Mr. Parikh.
117. Individual A confirmed on cross-examination that she had never witnessed any sexual interactions between Mr. Parikh and Individual B nor had Individual B told her about anything that was happening with Mr. Parikh at the time it was occurring. Individual B only shared what had occurred with Individual A after Individual A disclosed her own experiences with Mr. Parikh to Individual B.
118. Regarding Allegation 4, Individual A witnessed Mr. Parikh suggesting to Individual C that Individual C lose weight to look better but does not recall when those events took place. Individual A also recalls seeing Mr. Parikh repeatedly staring at Individual C's chest. She recalls Mr. Parikh allowing his friend to socialize at the Pharmacy but never directly witnessed the friend making sexual comments to Individual C.
119. Individual A confirmed she has no direct knowledge of the conduct alleged in Allegation 5 regarding Individual D.
120. Individual A testified that she has never seen Mr. Parikh drinking tea with lemon at the Pharmacy after 5pm; she stated that they did not keep tea at the Pharmacy but there were "copious amounts" of vodka.

(iv) Individual B

121. Individual B commenced working at the Pharmacy in 2009 as a front store clerk. When Mr. Parikh bought the Pharmacy, Individual B started working in the back as a pharmacy tech. She filled prescriptions, made blister packs and compounds, helped counsel patients, and did a lot of paperwork. Her shifts would generally go to 6 p.m. and it would usually only be her and Mr. Parikh left in the Pharmacy around that time.
122. She stated that working at the Pharmacy was great in the beginning and she was proud to have a good, well-respected job in the community, particularly because she did not complete high school. But then it turned into a nightmare. Individual B stated that by nightmare, she meant a physically, emotionally, and mentally abusive environment. While Individual B was not clear on the specific dates, she testified that there was no abuse in the years 2010-2014 and the abuse had likely occurred in 2015 and 2016.
123. She said that things changed for her at the Pharmacy one time when she was short on rent. She testified that she asked Mr. Parikh for a \$50 advance on her pay cheque to cover her rent and he told her to wait until after work. After work, they went into the kitchen and Mr. Parikh pulled \$50 out of his wallet and started unzipping his pants. Individual B testified

that she then gave Mr. Parikh oral sex for \$50 to pay her rent. She did not want to perform oral sex on him, but she did it for the \$50.

124. Individual B was 25 years of age when the abuse started and was a single mother at the time. On cross-examination, she indicated that it was dark in the kitchen as Mr. Parikh turned the lights off. She stated that she did not see his penis as she had her eyes closed the whole time. She could not see that the bill in Mr. Parikh's hand was a \$50 bill, but she assumed that it was as that was the amount she had asked for.
125. Subsequent to that incident, there were many occasions where Mr. Parikh had sex with Individual B in the back room behind the Pharmacy. This happened after work after everyone was gone. The encounters always happened in the back room and lasted 15 to 20 minutes or so. The encounters would happen two or three times per week.
126. Individual B testified that she never initiated the encounters but that she knew when they were coming because Mr. Parikh would come to work and tell Individual B that she was the boss. That meant that if she got to be the boss of the Pharmacy for the day, he would get to have his way with her after work. Mr. Parikh would call her a name that commenced with "Slave" and then incorporated her name.
127. Individual B testified that Mr. Parikh would take her into the back room, close both doors, lay a jacket or sweater down and tell her to lie down. Then he would come into the room after cleaning himself up in the bathroom and start taking her clothes off. He would then climb on top of her and have sex with her.
128. On cross-examination, she agreed with the estimate that she had had sex with Mr. Parikh over a hundred times but had not seen his penis during any of the encounters. She felt like he was circumcised but that was not based on seeing his penis. She agreed that she had never told Mr. Parikh to stop having sex with her but this was because she felt like she would lose her job, her apartment, and the food she bought for her child.
129. She did not complain to Mr. Parikh that his conduct was inappropriate but stated that her body language would have communicated that to Mr. Parikh as she would simply lie there like a "dead fish" while he was on top of her. She stated that she did not complain to the RCMP because she was a "high school dropout" against a pharmacist. She did not tell her co-workers what was happening either.
130. Mr. Parikh would pay her occasionally for sex. One time he paid her \$500 and she went to Walmart and bought a snowsuit for her child. She also bought gas, supper, and groceries. He did not pay her every time, only the odd time – he would say "oh here's \$70 or here's \$120" after it was done.
131. Individual B testified that the sexual encounters went on for about a year and a half or maybe two years. When asked why she didn't stop them, Individual B testified that she was scared to leave and to not be able to support her son. Eventually, she met a boyfriend who wanted her to be a stay-at-home mom, so she took that opportunity to leave the Pharmacy. This is when the sexual encounters stopped. This was around 2016.

132. Individual B confided in her boyfriend with respect to what had happened with Mr. Parikh. He reacted by saying that she would never have to be in that situation again and that he would protect her.
133. Individual B confirmed that she was a patient of the Pharmacy during the period of time that she was engaging in sexual relations with Mr. Parikh. She filled a number of prescriptions with the Pharmacy over that period. She stopped going to the Pharmacy as a patient in 2017 or 2018 when she moved to a different town. She has not had any communication with Mr. Parikh since she moved to the new town.
134. Individual B confirmed that she had a charge account at the Pharmacy. She was unsure what the balance was but she has not paid it off. She stated that [REDACTED] has been sending her bills in the mail about her charge account. Individual B agreed on cross-examination that she owed about \$3,000 on her charge account as of 2014 and that she was experiencing financial difficulties at that time.
135. Individual B testified that she spoke to Individual A about what had happened with Mr. Parikh. Individual A phoned Individual B “before this all started”. She confirmed on cross-examination that Individual A, one day, unexpectedly, messaged her on Facebook and asked if Mr. Parikh behaved sexually towards Individual B. Individual B told Individual A to leave her alone and that she had no idea what Individual A was talking about. Individual A subsequently asked if she could come to Individual B’s house to speak to her.
136. When Individual A came to Individual B’s house, she asked Individual B how her relationship was with Mr. Parikh. Individual B knew what Individual A was getting at, but she did not want to answer her. Individual B then described Individual A dropping to her knees crying and saying that she had been raped by Mr. Parikh for two years. This caused Individual B to start crying as well. She felt that she should have done something before things got to that point, but she hadn’t. Eventually she admitted to Individual A that the same had happened to her.
137. Under cross-examination, Individual B described the details of her encounters that she shared with Individual A. She stated that she told Individual A that Mr. Parikh would call her “the boss” in the day and then the sexual encounter would happen at night. If Individual B tried to leave the Pharmacy, Mr. Parikh would get ignorant and physical with her and call her names. She told Individual A that Mr. Parikh would lay a sweater down in a small, dark room where it was pitch black and tell her to lie down on the sweater. She indicated that Mr. Parikh would go in the bathroom and wash himself up and spray Axe body spray all over himself and then come in and shut the door. Then it would be black, and he would climb on top of her. At that point, Individual A started crying because she stated that that was exactly how it had happened to her too. Individual A then shared details with Individual B about what happened between her and Mr. Parikh and then Individual B “was, like, oh my god, that’s what happened to me”.
 - Individual A and Individual B did not discuss their charge accounts when they met at Individual B’s house.

- Individual B testified that she and Individual A were close friends at the beginning of Individual B's time working at the Pharmacy, but they did not maintain a friendship after Individual B stopped working at the Pharmacy.
 - Individual B testified that she did not discuss the testimony that she planned to give at the hearing with Individual A or any other employees of the Pharmacy.
138. In terms of the impact that this experience has had on her, Individual B testified that after she left the Pharmacy, she got into a bad relationship where she let a man physically and emotionally abuse her for 5 years. She does not trust men.
139. On cross-examination, Individual B agreed that Mr. Parikh was generally quite generous with his money. She confirmed that he had lent her \$5,800 for a dirt bike in 2012 and he was going to take amounts off her pay cheque in repayment. She believed that she repaid half the amount back but then Mr. Parikh stopped taking the payments off. Individual B testified that in her view, he stopped taking the payments off because she was giving him sex and oral sex to pay off the rest of it.
140. The dirt bike was for her boyfriend at the time, [REDACTED] Individual B confirmed that she and [REDACTED] were in a friend group with Mr. Parikh at that time but stated that they only hung out together about five times. She estimated that she and [REDACTED] hung out with Mr. Parikh at the Pharmacy after 6 p.m. about once per month. She denied that [REDACTED] was in on a joke with Mr. Parikh that Individual B was the boss after 6 p.m.
141. Individual B also agreed that she charged around \$1,600 in Visa cards to her charge account as she needed a damage deposit for her apartment. She stated that Mr. Parikh said this was okay. Individual B also agreed that Mr. Parikh gave her \$1,600 for surgery for her dog and did not ask her to pay it back. She denied that Mr. Parikh paid for a trip to Radium Hot Springs for her and her boyfriend.
142. Individual B acknowledged on cross-examination that she continued to participate in staff dinners during the period that she was engaged in sexual encounters with Mr. Parikh but denied socializing with him outside of work at that time. She did recall going to Mr. Parikh's house with her then boyfriend in December 2016 the day after a Pharmacy Christmas party at the Calgary Tower. They went to have lunch with Mr. Parikh and his wife so that Mr. Parikh and his wife could show them their new house.
143. Individual B confirmed that she invited Mr. Parikh to her family's farm and that she had introduced him to her mother and father but only in the context of him giving her parents' flu shots.
144. Individual B confirmed that she left employment at the Pharmacy briefly in 2014 and then went back to work at the Pharmacy in 2015 until late 2016. She confirmed that this was the period during which she was engaged in sexual relations with Mr. Parikh. She further acknowledged that she met with Mr. Parikh in the spring of 2017 to try to get her job back at the Pharmacy. At that time, she disclosed that she was being abused by her current boyfriend if she refused to have sex with him. On hearing this, Mr. Parikh offered her job back, but she did not ultimately accept the job offer.

(v) Individual C

145. Individual C worked at the Pharmacy from March 2018 to March 2020. She started out in the front of the store for her first year and later, in her second year, moved to the back pharmacy and worked in the pharmacy as a pharmacy assistant filling prescription, doing blister packs, answering the phone, and helping with the till.
146. Individual C stopped working at the Pharmacy after an argument between her and Mr. Parikh. Individual C testified that Individual A was not coming to work because she was very depressed. Mr. Parikh got very angry and stated that he does not need Individual A to ruin his life because he had already done that himself. As Mr. Parikh was being rude about Individual A not coming into work, Individual C explained to him that she knew about everything that had been going on and that Individual A had told her that Mr. Parikh had raped her. This put Mr. Parikh into more of a rage and she described him as “terrifying”. He told Individual C that she was stupid and no longer needed there. He went into his office and slammed the door. This left Individual C very fearful, so she left and came back the next day to get her belongings.
147. Individual C testified that Individual A told her about the rape a few months before Individual C’s argument with Mr. Parikh, probably before Christmas in 2019.
148. In support of statement that she knew what happened between Mr. Parikh and Individual A, Individual C provided text messages between herself and Mr. Parikh where she told him that she knew he had raped Individual A and that she thought it was horrific, devastating and disgusting (Exhibit 1, Tab 52, Appendix I).
149. In response to a question from the hearing tribunal about what she meant by “she knew everything” about what happened between Mr. Parikh and Individual A, Individual C stated that she knew that he raped her, sexually assaulted her. However, she could not recall if she knew any other details about what had occurred.
150. Individual C described working at the Pharmacy as “some days were good. Some days were bad.” She stated that Mr. Parikh would take the entire staff for monthly suppers and at Christmas he bought iPads for the staff. Other times he would be grumpy, not nice, and short-tempered. He did a lot of talking on his phone. He did not get along with certain staff members such as [REDACTED]
151. Individual C described a few incidents where a patient, [REDACTED] came in and wanted to be friends with her. She described [REDACTED] as “not mentally there”. Individual C stated that [REDACTED] scared her a few times as he told her that he wanted to get rid of her husband so he could be with her. He would just stand there and watch Individual C. She explained to Mr. Parikh that she was terrified of [REDACTED] but Mr. Parikh would just laugh.
152. Individual C stated that [REDACTED] would also come in and drink with Mr. Parikh in the back of the Pharmacy. Individual C stated that there is a kitchen in the back of the Pharmacy and Mr. Parikh would make his supper there and he would have friends come in and drink with him. She did not know specifically what they drank but there was wine in the back and beer in

the fridge. There were also vodka bottles. Individual C stated that they would drink around 4 or 5 in the afternoon, but the Pharmacy did not close until 6.

153. Individual C did not notice Mr. Parikh drinking tea with lemon after 5 in the Pharmacy. She felt that he maybe drank it in the morning but not after 5. She thought it was hot water with lemon not tea. She stated that she had observed Mr. Parikh pour alcohol into a coffee cup which he drank in the Pharmacy after 5 p.m.
154. Individual C's shifts usually ended at 5 p.m. and she testified that she only stayed past 5 p.m. if she had to which was rare.
155. Individual C testified that it was very loud in the back when Mr. Parikh and his friends were drinking. Individual C stated that Mr. Parikh and his friends would speak their language and when they came out to the dispensing area they would be laughing and speaking in their language. Individual C assumed that they were talking about her and Individual A. Individual C thought about recording what they were saying and entering it into Google Translate so she could learn what they had been saying. Individual C assumed that they were fat shaming her.
156. She assumed this because Mr. Parikh always told her to walk to work, drink hot water and to lose weight so she looked better. When customers would come in with treats for the Pharmacy employees, Mr. Parikh would tell them to take the treats back because there was "enough fat here". Individual C stated that Mr. Parikh's comments about her weight were not clinical in nature. Individual C felt very embarrassed and disgusted when Mr. Parikh would make comments about her weight. She did not, however, advise Mr. Parikh of how his comments made her feel. She didn't think she should have to.
157. Individual C described that she stopped wearing her Pharmacy name tag as she would catch Mr. Parikh looking at her chest and he would say that he was looking at her name tag and "what's your name again?" jokingly. However, she knew that he was looking at her chest. She did not advise Mr. Parikh that this made her uncomfortable. She just stopped wearing her name tag.
158. In support of statement that Mr. Parikh made comments regarding her chest that made her uncomfortable Individual C provided text messages between herself and Mr. Parikh where she told him he had no right to make comments about her weight or her chest (Exhibit 1, Tab 52, Appendix I).
159. Individual C was a patient of Mr. Parikh's and received medications for weight loss and headaches between January 2019 and March 2020. She also received flu shots. Mr. Parikh paid for her weight loss prescriptions.
160. On cross-examination, Individual C confirmed that she was trying to lose weight for cosmetic reasons. She testified that she saw a doctor about weight loss, and he recommended surgery. She also recalled that Mr. Parikh made a recommendation that she try Ozempic instead of surgery for weight loss. Based on this suggestion, Individual C went to a doctor and got a prescription for Ozempic. Individual C conceded that she approached

Mr. Parikh about her weight on a professional level and that he had to engage in a conversation about her weight to do his job to a certain degree. However, Individual C stated that Mr. Parikh should not engage in fat shaming.

161. In response to a question from the hearing tribunal, Individual C stated that Mr. Parikh had not created a pharmacy care plan for the purposes of supporting her weight loss.
162. Individual C testified that she, like virtually all the residents in town, had a charge account at the Pharmacy. Individual C used the charge account for things in the store. She also used Visa gift cards and charged them to her account because she was promised health benefits for two years that never materialized. Individual C acknowledged that she used the Visa gift cards to pay for her kids' dental and glasses. She conceded that Mr. Parikh offered to contribute \$2,400 to a benefits program but stated that he only did so right near the end of her employment.
163. Individual C did not pay off her charge account. After she stopped working at the Pharmacy she came in and put \$500 against her charge account but then was advised not to go in the Pharmacy. The balance of her charge account was about \$4,000. Mr. Parikh has sued her in civil court for this amount.
164. Individual C testified that she spoke with Individual A about this matter when it was first happening, but she has not spoken to Individual A about her testimony in this matter. Further, while Individual C knows both Individual B and Individual D, she has not spoken to either of them about this matter.
165. Individual C testified that the relationship between Individual A and Mr. Parikh did not seem normal up until December 2019. She felt like Mr. Parikh "owned" Individual A and that he had control over her. He would make her stay and work and they did a lot of texting. It was "not like a boss". She did not agree that Individual A and Mr. Parikh had a friendly relationship but conceded that all of them would go out to restaurants and that Mr. Parikh would go to Individual A's husband's garage.
166. Individual C testified that this has had a terrible impact on her. When asked to elaborate, Individual C stated, "all the stress, depression".

(vi) Individual D

167. The Complaints Director made several attempts to contact Individual D to secure her attendance as a witness at the hearing. Ultimately, Individual D could not be contacted and did not give evidence at the hearing.

(b) Witnesses for Mr. Parikh

(i) Ankit Parikh

168. Mr. Parikh moved to Canada from India in 2003 and began working with the Real Canadian Superstore pharmacies in January 2005. He then moved to Rexall and eventually purchased the Pharmacy in January 2010.
169. After he purchased the Pharmacy, Mr. Parikh established the pharmacy hours as 10 to 6 Monday to Friday and 10-1 on Saturdays. Mr. Parikh would work on Monday, Tuesday, Thursday and Friday and his wife, also a pharmacist, would work on Wednesday and Saturday. This schedule enabled them to provide childcare to their son.
170. Mr. Parikh renovated the back area of the Pharmacy to add a small kitchen so he could cook himself meals from time to time.
171. Mr. Parikh denied drinking at the Pharmacy during opening hours. However, he acknowledged cooking supper and drinking with friends at the Pharmacy in the evenings after the Pharmacy was closed. During the day, Mr. Parikh would drink warm water with lemon. On cross-examination, he agreed that he kept vodka and beer in the kitchen in the Pharmacy as well as Hutterite wine, but he did not drink the wine.

(A) Individual A

172. Individual A was already employed at the Pharmacy when Mr. Parikh purchased it, and he kept her on staff. Initially she was working in the front store, basically as a cashier. Later, she handled the gift department. In 2015, Individual A came to Mr. Parikh and suggested that they sell Breyer model horses at the Pharmacy. Individual A told Mr. Parikh that she would charge the horses to her account and then sell them online. Mr. Parikh said that was fine, but he didn't ask too many details. He directed Individual A to [REDACTED] for any concerns or questions about the front store inventory. Mr. Parikh was relatively hands off in terms of the front store and let [REDACTED] manage that side of things. Mr. Parikh testified that to this day, he did not really understand what Individual A was doing with the horses. He obtained his information from [REDACTED] at a later point.
173. Mr. Parikh testified that Individual A was a great and smart employee. However other front store employees would complain that she was always on Facebook. This did not concern Mr. Parikh as long as Individual A got her job done. In or around 2018, Individual A and [REDACTED] had a fight and Individual A no longer wanted to work with [REDACTED]. Mr. Parikh then moved Individual A to a Pharmacy Assistant position. Her hours were 10-6.
174. Starting in or around 2014, Individual A would invite Mr. Parikh to social gatherings outside of work. He would attend at a campground where they had a trailer. Mr. Parikh estimated that he attended at the campground about 4 times. After Individual A started working as a pharmacy assistant in 2018, her husband would attend at the Pharmacy after 6 and hang out with Mr. Parikh. Mr. Parikh stated that this was done at Individual A's suggestion. Another individual, [REDACTED] would also hang out with them. The three of them would also go for lunch and to play pool. Other friends would also join them from time to time. Mr. Parikh would also hang out at Individual A's husband's garage. Mr. Parikh described himself as being very close with Individual A's husband. Mr. Parikh testified that he also went ice fishing with Individual A and her husband in February 2019. Mr. Parikh also attended a dinner

with Individual A, her husband, her husband's cousin, and another employee in September 2019. The dinner was to thank Mr. Parikh for a donation he made.

175. Mr. Parikh testified that around 5:00 or 5:30 p.m. Individual A would encourage him to start drinking. He would tell her that he wanted to wait for her husband, but she was insistent he start early. He stated that he now realizes that she wanted him to be in a situation where she could "make a story about him".
176. When asked to respond to Individual A's allegations of sexual assault, Mr. Parikh testified that there was a change in Individual A when she and her husband had to move into town from a farm where they had been living rent-free. Mr. Parikh surmised that now having to pay rent in town was causing Individual A some financial distress.
177. In October 2018, Individual A proposed to Mr. Parikh that they work late and do inventory. Mr. Parikh wanted Individual A to do the inventory with another employee, but Individual A was insistent that Mr. Parikh do the inventory with her. He agreed but when they started to do the inventory, Mr. Parikh thought that he should go and brush his teeth because his food has lots of garlic and onion. When he came back, Individual A asked where he had been, and he said that he had brushed his teeth to make himself fresh. Individual A then asked if he had a plan to kiss and he said, "to who?". Individual A laughed at him, and Mr. Parikh testified that he ignored her, and they started the inventory. After they had done about an hour and a half of inventory, Individual A's husband came, and they left. On cross-examination, Mr. Parikh denied that he told Individual A that he had just brushed his teeth and wanted a kiss.
178. Mr. Parikh testified that Individual A was very unhygienic and had lots of animal hair on her clothes. He stated that Individual A had a smell, and it was difficult to stand near her and that is why he always used deodorant. He thought that is why she had mentioned his use of deodorant.
179. Mr. Parikh described another incident where he was washing glasses and Individual A came up to him and touched her chest to him. She smiled and said that she just wanted to get her glass to have some water. She then laughed and left.
180. Mr. Parikh described a further incident where Individual A did not leave the Pharmacy at 6 one night and instead spoke to Mr. Parikh about her financial issues. Mr. Parikh replied that he was also in debt as a result of the purchase of a pub so could not assist then but he would try to help her later on after his pub issues were sorted out.
181. Another evening, Mr. Parikh was watching cooking recipes on YouTube around 6:15 when Individual A came to him and said she was doing some horse inventory. Mr. Parikh hadn't realized she was still in the Pharmacy at that point but said it was fine to stay and do the horse inventory. Mr. Parikh testified that Individual A then asked him if he was watching porn. He said no and stated that Individual A replied by stating that he didn't need to watch porn anymore because she was here for him. Mr. Parikh didn't say anything in response to that suggestion and just laughed, thinking that she was making "some kind of fun or something". He then stated that Individual A should go home and cook supper. Individual

A stated that her husband was coming to the Pharmacy, and she went back to doing inventory.

182. On cross-examination, Mr. Parikh denied telling Individual A that he had masturbated to the thought of her as it was totally the opposite. Individual A said I am here now, and you can think of me and masturbate. Mr. Parikh stated that he laughed at Individual A and said that he was fine with his porn.
183. A while later, Mr. Parikh testified that he had been drinking alcohol, more than he was supposed to have, and Individual A came back into the kitchen and said something weird to him. He stated that she put his hand on her chest and stated, "you can have it". Mr. Parikh stated he could not stand properly at that time because of his drinking so he lost his balance and put his hand on the fridge to catch his fall. Individual A laughed at him. Mr. Parikh testified that Individual A was encouraging him to touch her. In reply, he stated that he was waiting for Individual A's husband, and this was not a good idea. Mr. Parikh denied using his body to block Individual A against the fridge in the Pharmacy kitchen. He stated that he lost his balance and put his hand on the fridge to get support.
184. The next day Individual A asked him how yesterday was and he stated "no, that's no good" and that Individual A should stop staying late at the Pharmacy. He also noted that all Pharmacy employees have keys and could come in anytime. Mr. Parikh recalled that this incident happened right before he left on a trip for Miami around the end of October.
185. Mr. Parikh stated that he would go to the colony to give flu shots. Whatever he earned from administering the flu shots, he would put in a gift card and give to the girl who came to help him. He had a plan to go to the colony on November 14th or 15th when he got back from Miami, but he told Individual A that they were not going to go to the colony anymore. Individual A resisted this because of her financial issues. Mr. Parikh stated they could go but he wanted Individual A's husband to join them. Individual A phoned her husband in front of him, and her husband agreed to meet them for dinner. Mr. Parikh and Individual A then left for the colony around 6:30 and then returned around 7:45 and had dinner with Individual A's husband.
186. Mr. Parikh testified that everything was normal with Individual A and Individual C until another employee, [REDACTED], came to him on December 2 and told him that Individual A and Individual C were taking a lot of credit gift cards and charging them to their accounts. Mr. Parikh stated that he was not too hard on the money and didn't chase customers to pay their accounts.
187. Mr. Parikh testified that the charge accounts had been started by the previous owner and he kept them in place. He did not know much about how to check or handle the charge accounts. This was all taken care of by [REDACTED]. Mr. Parikh told them to let him know if there were any problems.
188. As they were having a Pharmacy Christmas party on December 4 and Christmas was coming up, he told [REDACTED] that they would sort this issue out after December. Mr. Parikh characterized

this as his biggest mistake because he testified that at this time is when Individual A “made the plan” and went to see her doctor to complain that he abused her.

189. At the Christmas party, the Pharmacy paid for the employees’ food and drink. They had a good time and both Individual A and Individual C were there with their husbands. [REDACTED] was there with her husband as well. On the following Monday, Individual A texted Mr. Parikh and told him that he had insulted her and her husband. Mr. Parikh stated that maybe he was drunk and said something he shouldn’t have to them and that he was sorry. Individual A replied that no he had made her life hell and Mr. Parikh asked her what exactly happened because he didn’t know. On cross-examination, Mr. Parikh described this as Individual A changing her story. When asked whether he asked what Individual A was complaining about, Mr. Parikh stated that he didn’t know about that. First, she started with the fact that he had said something to her and then he thought she was talking about when she came to him and made advances.
190. Mr. Parikh testified that Individual A continued to text him over the next week and stated that he insulted her, and he was not supposed to meet with her. Mr. Parikh testified that he asked what he had done. He thought maybe she was referring to the incidents in October where she had made advances towards him. Mr. Parikh stated that he did not do anything to Individual A. He stated that he did not need to say he was sorry and felt like she was just trying to get some evidence from him to prove that he had done something wrong.
191. When asked what he thought Individual A was referring to in the text messages, Mr. Parikh thought he might have said something to her husband that he shouldn’t have. He asked some other employees in the Pharmacy if they recalled him saying anything offside to Individual A’s husband, but they did not. He then came to realize that Individual A was saying these things because of her charge account, which was at almost \$9,000 and she also had to pay \$6,000 to her credit card. Individual A started to threaten Mr. Parikh that she would go to the ACP to complain about him. Mr. Parikh testified that because he already had an ongoing lawsuit involving his pub and because the College processes could take a long time, that he would waive Individual A’s charge account and give her \$6,000 as a bonus. He also wanted her to stay as an employee at the Pharmacy. Individual A then agreed to remain at the Pharmacy and came back at the end of December.
192. On cross-examination, Mr. Parikh acknowledged that his text messages with Individual A confirmed that he offered to clear her charge account, pay down her credit card debt by \$500 per month, give her a \$500 bonus if she came back to work and make her debt free in a year. (Exhibit 1, Tab 52, Appendix E).
193. On cross-examination, Mr. Parikh was asked whether he offered Individual A all this money because he thought he might have said something to Individual A’s husband at the Christmas party. Mr. Parikh replied that no, it was because he felt that she was going to make a story about the advances she had made towards him in October. This also coincided with the period of September-December 2019 where she was putting a “crazy amount of money” on the gift charge cards. Mr. Parikh denied paying Individual A the money because he was concerned that she was going to tell people he was sexually abusing her.

194. Mr. Parikh denied threatening to rape Individual A if she did not have sexual intercourse with him and denied having sexual intercourse in the Pharmacy on multiple occasions between October 2018 and November 2019 without her consent.
195. Mr. Parikh then felt that Individual A was blackmailing him. However, he testified that everything was fine and normal when they were working together in January. Individual A also wanted to keep the Breyer horse inventory worth around \$4,000. Mr. Parikh realized that every month she was asking him for money. He referred her to [REDACTED] about the Breyer horses and [REDACTED] told Individual A that she would have to pay for the horse inventory first. Mr. Parikh also asked [REDACTED] to remove all the gift cards from the Pharmacy so Individual A could not charge them to her account.
196. When Mr. Parikh was away for a course in Vancouver in February, he reviewed the Pharmacy security camera from his phone and saw that Individual A was removing boxes from the Pharmacy and putting them in her car. Mr. Parikh confirmed with [REDACTED] that he had not authorized this so [REDACTED] then intervened and told Individual A to put the boxes back.
197. Mr. Parikh testified that both Individual A and Individual C were taking gift cards and charging them to their accounts. He stated that they used a code that he had provided them for customer accounts. If customer had outstanding charges, normally they could not be charged for additional medication. However, the code could be used to override this, and Mr. Parikh would provide customers with their medication. He didn't want customers to go without medication simply because they couldn't pay. Mr. Parikh testified that Individual A and Individual C used this code to override their own charge accounts.
198. Mr. Parikh described being totally shocked to be arrested by the RCMP around April 1. The officer told him that he was there to take him to the police station and that Individual A had made a complaint against him. Mr. Parikh stated that the criminal charges were withdrawn but Mr. Parikh was not to contact Individual A directly or indirectly for one year.
199. Mr. Parikh testified that after his license was suspended, he decided to pursue Individual A in a civil action for the payment of her charge account.
200. The Hearing Tribunal directed Mr. Parikh to a text message where Individual A was expressing upset and Mr. Parikh responded, "[Individual A], I can understand your frustration". He testified that he understood Individual A's frustration to be about her finances. Mr. Parikh was also referred to a text message that stated, "I can never forgive you for what you did to me". In response, Mr. Parikh again testified that he thought that she was frustrated about her financial situation.
201. Another text where Mr. Parikh stated that he had done nothing wrong, or nothing forcefully was put to him by the Hearing Tribunal. He explained that Individual A had come close to him and tried to lure him, and he hadn't forced her to do anything. This is what he meant by having done nothing forcefully. He also surmised that she might have deleted some texts in between.

(B) Individual B

202. Mr. Parikh testified that Individual B was working at the Pharmacy when he purchased it in 2010. She moved into the pharmacy assistant position in 2011 or 2012. Mr. Parikh hung out with Individual B and her boyfriend [REDACTED] a lot in 2013 or 2014. They would go out for dinner but sometimes Individual B would want to stay in and cook, but Mr. Parikh would feel badly because he is a vegetarian and she would have to make extra dishes for him. Mr. Parikh testified that Individual B would state that she is the boss, and he was not the boss anymore.
203. In 2012, Mr. Parikh agreed to loan Individual B \$5,800 for a dirt bike for [REDACTED]. He would deduct \$100 per paycheque as repayment. Eventually, Mr. Parikh stopped making the deductions because Individual B was struggling financially, and he told her she could repay him when she had the money.
204. Mr. Parikh testified that they would hang out with other individuals including another woman, [REDACTED]. One night when [REDACTED] was driving [REDACTED] home, Individual B seemed upset and jumped on him and hugged him and started to kiss him. Mr. Parikh testified that he was in shock and asked her what happened. Individual B started crying. Mr. Parikh left, and the next day Individual B told him that she was worried because [REDACTED] was close with [REDACTED] [REDACTED] and Individual B then broke up and Individual B started dating [REDACTED].
205. Shortly thereafter, Individual B decided to move to a different town with [REDACTED]. Before she left, Mr. Parikh saw Individual B take Visa gift cards for herself without charging them to her charge account. He stated that he caught her stealing. However, he didn't say anything to her because she was upset and moving. She was unsure whether to move with [REDACTED].
206. She stayed and had a drink with Mr. Parikh in the Pharmacy in the evening. She was confused and upset and started to cry. She was worried about moving with her young son. Mr. Parikh testified that again Individual B jumped on him and started to kiss him. Mr. Parikh told her to stand down. Individual B then told Mr. Parikh that [REDACTED] had given her the money to repay Mr. Parikh for the dirt bike but she was not going to give it to him then because she was moving in two days. Mr. Parikh then had nothing to say to her and told her she could go and to have a wonderful life.
207. About six months later, Individual B showed up at the Pharmacy which was a surprise to Mr. Parikh. She said it had been a mistake to move with [REDACTED] and that she was going back to [REDACTED]. Mr. Parikh said that was great news. Individual B then got a job at a restaurant. Around three or four months later, Individual B approached Mr. Parikh and said she was not getting full-time hours at the restaurant and asked if he had any work for her. At that time, Individual B said she regretted moving with [REDACTED] and regretted not listening to the three people she always admired: her father, [REDACTED], and Mr. Parikh. Mr. Parikh felt she was sincere and re-hired her in or around August 2015.
208. Mr. Parikh testified that Individual B and [REDACTED] were struggling in their relationship so he booked them a trip on Expedia, got them a gift credit card and a gas card and told them to take some time away.

209. Around this time, Mr. Parikh began hanging out with a new friend, [REDACTED]. Individual B would hang out with them as well. One time when it was just Individual B and [REDACTED], Individual B jumped on [REDACTED] and started to kiss him. [REDACTED] told Mr. Parikh about this the next day. Mr. Parikh said that Individual B behaves this way when she is emotional and told [REDACTED] to be careful and that he did not need to go along.
210. [REDACTED] and Individual B broke up again and Individual B called Mr. Parikh to help her move into an apartment. He agreed to do so and paid to fill up her gas tank.
211. From December 2015 to August 2016, Mr. Parikh testified that Individual B dated a lot of guys and often asked to leave the Pharmacy early so she could go on dates. Individual B then started dating [REDACTED]. In December 2016, [REDACTED] came to a Pharmacy Christmas party at the Calgary Tower with Individual B. The day after, [REDACTED] and Individual B went to Mr. Parikh's house for a visit and then they went out to lunch together.
212. After that Individual B moved to a different town with [REDACTED] and quit her job at the Pharmacy. In or around April 2017, Individual B texted Mr. Parikh and said she had to talk to him. She told Mr. Parikh that [REDACTED] was abusing her and showed him bruises. Mr. Parikh advised her to move back home with her dad. Three or four days later Individual B texted him to say that she was fine, and she was going to go back to [REDACTED].
213. When asked to respond to Individual B's allegations of sexual abuse, Mr. Parikh stated it was very shocking. He referred to the fact that all of Individual A, Individual B and Individual C had been stealing money through the credit gift cards. Mr. Parikh stated that he told them that because they had taken over \$5,000 they could be criminally charged and go to jail. He stated they were shocked and knew they were in big trouble and that is when "these three become together". That is why Individual A and Individual C involved Individual B in this matter as well. He surmised that the ACP complaint came about because he threatened them that if you steal more than \$5,000, you will be in big trouble. On cross-examination, Mr. Parikh denied engaging in sexual intercourse with Individual B in the Pharmacy on multiple occasions in 2015 and 2016 without her consent.
214. On cross-examination, Mr. Parikh further denied asking Individual B to perform oral sex on him for \$50. He testified that it was [REDACTED] who asked Individual B to do this when she told him she was short on rent money. Mr. Parikh stated that Individual B then came to him and asked him if she could perform oral sex on him for \$50. He told her that he could always help her out if something had happened.
215. Mr. Parikh testified that when he stayed at the Pharmacy and had something to drink in the evening, he would sometimes stay and sleep 3-4 hours at the Pharmacy before driving back to where he was staying. When he did that, he would place a jacket or sweater on the floor. He surmised that this was why Individual A and Individual B spoke about him placing a jacket or sweater on the floor.

(C) Individual C

216. Individual C started working at the Pharmacy in February 2018 and quit in March 2020. Mr. Parikh testified that Individual C told him that two male customers would always come in and stare at her chest and they would joke about it and laugh. On cross-examination, Mr. Parikh testified that he asked Individual C if she was OK and told her that she could have another employee serve the two male customers if she was not comfortable interacting with them. He testified that Individual C said that she was fine, and it was just a joke.
217. Mr. Parikh testified that he told Individual C that when he was new in Canada, he would rely on name tags to remember the staff he was working with because he would often be working with different staff. He testified that Individual C made up a whole new story about how he was looking at her name tag. On cross-examination, Mr. Parikh denied that that he stared at the name tag on Individual C's chest such that she stopped wearing the name tag.
218. In terms of the comments about her weight, Mr. Parikh stated that Individual C had created a whole story about that. Mr. Parikh testified that Individual C went to the doctor about her weight, and he recommended surgery. Mr. Parikh told her that there were medications available for weight loss, like Ozempic, and he suggested trying medication first before surgery. Mr. Parikh agreed to pay for the weight loss medication, as he had done for [REDACTED] husband. Individual C took the medication for 6-8 months. Mr. Parikh also suggested some lifestyle changes to Individual C including trying to drink hot lemon water a couple times per day. Mr. Parikh testified that things were fine between him and Individual C until December 2, after which they "made his life hell". On cross-examination, Mr. Parikh denied telling Individual C to lose weight to look better.
219. With respect to [REDACTED] Mr. Parikh testified that he was a customer and not in good shape mentally. Individual C told Mr. Parikh that [REDACTED] asked if she was single and told her she was always charming and smiling. [REDACTED] was from the same culture as Mr. Parikh, and they would speak in their native language and laugh about different things. Usually, [REDACTED] was relaying a story about something that happened when he was living in Edmonton. Mr. Parikh testified that he told Individual A and Individual C what they were talking about, and Individual A and Individual C would laugh with them. On cross-examination, Mr. Parikh stated that he had only hung out with [REDACTED] one time at the Pharmacy.

(D) Individual D

220. Mr. Parikh testified that Individual D and her boyfriend came to a staff party, and it was there that he suggested they have a drink. He denied commenting on Individual D's body shape or inviting her to stay after work to drink with him in the Pharmacy. He also denied inviting Individual D to go to the bar with him after work.
221. In terms of whether he told Individual D that it was OK to cheat on a wife, Mr. Parikh thought that Individual D might have overheard a comment he made to a friend of his in a different context.

(E) Impact on Mr. Parikh

222. Mr. Parikh described the allegations as completely ruining his life. He had already lost \$1 million on his purchase of a pub and was still paying his debt on that. Within a couple months of that, he lost his license. His health has suffered – he couldn't sleep and is depressed. Mr. Parikh testified that he has lost everything.

(ii) [REDACTED]

223. [REDACTED] was born and raised in the town and was 73 at the time she gave evidence before the Hearing Tribunal. [REDACTED] began working at the Pharmacy in 1998 under the prior owner. She began working with the prior owner on the pharmacy side of the business and was involved in daily invoices, the Pharmacy's banking, inventory and ordering as well as stocking shelves. [REDACTED] continued to work for Mr. Parikh when he purchased the Pharmacy around 2010 until she retired around 2013; however, she continued to do the month-end statements for the Pharmacy's charge accounts. [REDACTED] testified that Mr. Parikh was a very good employer, describing him as generous, polite, and well-liked by the community.
224. [REDACTED] explained the Pharmacy's charge account system, which permits people to charge items to their account and pay at the end of the month. When someone charges items to their account, a slip is placed into their account folder. [REDACTED] is responsible for drawing up the statement at the end of the month, matching the till slips against the statement, and then compiling the statement and the slips together to provide to the individual. The charge account bills (with the associated till slips) are issued at the end of each month. [REDACTED] was also responsible for distributing the month-end bills to staff members and customers. She is not involved in pursuing payments where the balances remain outstanding. Where a bill was not paid, [REDACTED] would give the bill to Mr. Parikh to address.
225. [REDACTED] identified the document at Exhibit 1, Tab H52, Appendix J, p. 694 as a letter dated June 11, 2020, that she authored and signed. When asked about the statement in the letter "over the past few months I have noticed a dramatically huge increase in [Individual A's] and [Individual C's] charge account (sic)", [REDACTED] stated that Individual C's charge account balance was not very high until later, but that Individual A steadily charged items to her account daily and never paid. [REDACTED] did not have an independent recollection of when she noticed these increases, noting she had difficulty remembering dates, but estimated it was after 2019.
226. [REDACTED] testified that at the end of November 2019, the Pharmacy had a Christmas party. Everyone sat at one table. [REDACTED] recalls Mr. Parikh, [REDACTED] and her husband, Individual A and her husband, and Individual B and her husband attending but noted that the party included all staff and their family. Mr. Parikh sat at the end of the table across from Individual A and her husband. Mrs. Parikh did not attend. During the party, [REDACTED] observed Individual A jumping up and running out crying. Individual A's husband followed her out before they returned, got their children and left the party. [REDACTED] did not know what was going on; Individual A did not say anything and [REDACTED] did not see anyone say anything to Individual A.

227. Prior to the Christmas party, [REDACTED] noticed that Individual A's charge account was increasing; it was at a few thousand dollars and then kept increasing for around a year and a half. Soon after, [REDACTED] observed Individual C's account balance increasing. Because it was around Christmas time, Individual A and Individual C were charging things for their children as well as pre-paid credit cards and gift cards, but they were not leaving the charge account slips in the till as required. [REDACTED] was therefore unable to tell what Individual A and C had purchased unless she went back and reprinted all the slips. While the account balances were increasing these individuals were not paying down their balances. [REDACTED] informed Mr. Parikh of her concern regarding Individual A's and Individual C's charge accounts on more than one occasion between October and December 2019; Mr. Parikh indicated he would deal with it.
228. [REDACTED] described that Individual A would refuse to take her bill from [REDACTED] and instead would throw it in the garbage. Then, Individual A stopped putting slips into the till at all. [REDACTED] raised a concern with this practice to Individual A. [REDACTED] described Individual A as having a bad attitude about it; Individual A indicated that she would not take the bill, and that [REDACTED] might as well throw it in the garbage because she knew how much her bill was.
229. [REDACTED] testified to hearing conversations between Mr. Parikh and staff members about their charge account balances where Mr. Parikh would emphasize that they had to pay down their account and not paying is akin to stealing. The staff member [REDACTED] observed having this conversation with Mr. Parikh was Individual B. [REDACTED] recalled Individual B indicating that she would not pay her balance. On cross-examination, [REDACTED] confirmed that in 2015, she was not at the Pharmacy very often because she was no longer working full time at that point. After retiring, [REDACTED] worked about 4 hours at the end of the month to do the month end billing so would be at the Pharmacy on a regular basis around a day or a half day per month to do the billing. However, [REDACTED] would also attend the Pharmacy around 3 times a week to pick up magazines, books and other things. [REDACTED] estimated that she overheard Mr. Parikh speak to Individual B about her charge account balance around 2015.
230. [REDACTED] heard Mr. Parikh speaking to Individual A about her charge account balance when [REDACTED] was "passing by". [REDACTED] recalled hearing Individual A saying she would not pay her account and being told she could not do that because it is stealing. [REDACTED] believes this conversation occurred around the time of Individual A's last bill around November 2019. [REDACTED] recalls hearing Individual A arguing with Mr. Parikh "all the time".
231. [REDACTED] did not know why Individual A left employment at the Pharmacy until she received a phone call from the RCMP requesting she provide a statement. [REDACTED] attended the RCMP to provide a statement and learned that Individual A had accused Mr. Parikh of a sexual offense. [REDACTED] found out further, limited information from Individual A directly when, on the way back from giving her statement to the RCMP, [REDACTED] stopped by the Pharmacy and saw Individual A. Individual A approached [REDACTED] with tears in her eyes and asked if [REDACTED] had been at the RCMP. [REDACTED] confirmed and Individual A told [REDACTED] that Mr. Parikh had been raping her for two years. [REDACTED] was shocked and asked how that could happen, and Individual A responded by telling [REDACTED] that Mr. Parikh said he would tell her husband. Individual A then "took off, crying".

(iii)

232. [REDACTED] moved to the town in 1981 and has lived there since then. [REDACTED] began working at the Pharmacy in 2012 when Mr. Parikh hired her. [REDACTED] started as a cashier for the most part before being trained in the dispensary, which is the role she currently occupies full time. [REDACTED] has also had other roles in the front-end. Over the prior three to four years, [REDACTED] had been doing the ordering, data entry, receiving merchandise and taking care of the front-end store. In 2019/2020, [REDACTED] divided her time between the dispensary and the front-end store. Prior to being hired in 2012, [REDACTED] knew Mr. Parikh since 2010 as he was her pharmacist.
233. As a pharmacist, [REDACTED] described Mr. Parikh as very professional with a great memory, very timely and has a good rapport with patients. In terms of the employer role, [REDACTED] describes Mr. Parikh as very kind and generous, that they have fun at work and there is a “pretty relaxed atmosphere for the most part”.
234. [REDACTED] identified the document at Exhibit 1, Tab H52, Appendix J, p. 695 as a letter she wrote dated April 3, 2020. [REDACTED] explained what Breyer model figurines are and that the Pharmacy started selling the figurines after Individual A sought and received permission from Mr. Parikh for the Pharmacy to do so. Around April 2020, the Pharmacy had a large amount of Breyer stock; the figurines were higher end and did not sell as fast as other toys. [REDACTED] therefore suggested to the store manager, [REDACTED] that they inventory the Breyer stock and put the older items on sale. As [REDACTED] was taking inventory, she discovered more and more items of the Breyer stock were missing and needed to be written off. Related to this, [REDACTED] identified Exhibit 1, Tab H52, Appendix J, p. 714 as “till tape” from when she was doing inventory of the Breyer stock. The till tape indicates the name of some Breyer items, and the number of items [REDACTED] was unable to locate and her calculation of the total cost of the missing stock (\$7,187.74 indicated on the till tape and [REDACTED] April 3, 2020 letter). [REDACTED] informed [REDACTED] of the missing stock.
235. When asked what [REDACTED] surmised happened to the missing Breyer stock, [REDACTED] stated the only person that could perhaps account for the missing Breyer stock was Individual A because it was her project and her passion. Individual A was the only person [REDACTED] could think of that could possibly know what happened to the missing stock.
236. [REDACTED] observed that Mr. Parikh and Individual A were friends and would socialize “more than usual”. In this regard, [REDACTED] referred to Individual A’s family inviting Mr. Parikh to come to their campsite for a visit, have dinner and hang out with the family.
237. [REDACTED] felt that sometimes Individual A would be “pushy” about what she wanted to happen in the Pharmacy store and [REDACTED] did not always agree with her approach. With regard to Individual A’s allegations against Mr. Parikh, [REDACTED] recalled Individual A telling her that Mr. Parikh had pushed her into the fridge in the back of the Pharmacy.
238. On cross-examination [REDACTED] identified the documents at Exhibit 1, Tab H52, Appendix E p. 653-667 as text messages she exchanged with Individual A, except for pages 661 and 662, which [REDACTED] testified she did not recognize. [REDACTED] explained that Individual C told her Individual A said she could do whatever she wanted at the Pharmacy store and could

demand money or gifts from Mr. Parikh for what she was accusing Mr. Parikh of. ■ therefore texted Individual A to tell her that using her allegations against Mr. Parikh for that purpose, was extortion and ■ did not want to be party to that. ■ texted to ask Individual A if she was going to do that or “go through proper channels”. ■ testified to her belief that Individual A going to the ACP was the correct path to take.

239. ■ provided clarification regarding statements made in her text messages to Individual A at Exhibit 1, Tab H5. At page 657, the statement “Ankit knows we all know” referred to Mr. Parikh knowing they all knew the rumours that he and Individual A had a sexual relationship.

240. At page 665, the statement “I am furious with Ankit”, ■ explained she meant “if [Mr. Parikh] had been abusive, then that is what I was angry about”. At page 667, the statement “I didn't call Ankit on his shit for you” was in the context of telling Individual A that she should take matters into her own hands. ■ could not recall talking to Mr. Parikh about any specific behaviors at that time.

241. On re-examination, ■ advised she was unsure of when the text messages with Individual A took place, but believed the texts were exchanged before she inventoried the Breyer stock and discovered the missing items. ■'s discovery of the missing Breyer items impacted her view of Individual A, causing her concern that Individual A was “not a completely honest person” as it appeared that Individual A stole the missing stock.

242. ■ testified that the Pharmacy would hold social events such as taking staff out for their birthdays and Christmas parties. Mr. Parikh would also take the staff out for dinner to a restaurant in town, at his own cost, for them to hang out and get to know one another. ■ recalled that at the staff Christmas party in 2019 Individual A seemed agitated, and her young son would not sit down and eat.

243. ■ worked with Individual B at the Pharmacy. She described Individual B as being “a really nice gal” and a hard worker. While there were times they did not get along, ■ explained that they sorted it out and ultimately, became very good friends. ■ was not aware of anything unusual in Individual B's relationship with Mr. Parikh.

244. ■ testified that she first knew Individual C because she has a grandson in the same class as Individual's C's child. ■ also worked with Individual C once she was hired at the Pharmacy in around 2018 or 2019. ■ observed interactions between Individual C and Mr. Parikh and never observed anything inappropriate about their interactions. ■ was not aware of Individual C's allegations against Mr. Parikh.

245. ■ never observed anyone drinking at the Pharmacy. ■ knew there was beer in the fridge sometimes but never saw anyone drinking alcohol in the Pharmacy.

(iv) ■

246. ■ worked at the Pharmacy for over 28 years until she retired in August 2021. She has worked in a variety of roles including working for a period of time as a pharmacy technician

for the prior owner of the Pharmacy. [REDACTED] was integral to developing the inventory/POS system put in place in 1998 and assisted the front store manager until that manager left and [REDACTED] took over managing the store. This includes receiving all goods and inputting them into the POS system, inventory, and accounts payable. [REDACTED] was in the manager role in the years leading up to her retirement.

247. When Mr. Parikh took over the Pharmacy, [REDACTED] was solely working in the front-end store part of the Pharmacy. [REDACTED] hours were from 8/8:30 am until the store closed at 6:00 pm with a 1.5-hour lunch break around 1/1:30 pm. Mr. Parikh did not want to have a lot of involvement in running the front store of the Pharmacy and instead concentrated on the pharmacy. [REDACTED] was responsible for running the front store, including ensuring the store was staffed and scheduling.
248. [REDACTED] did not often stay at the Pharmacy after it closed at 6:00 pm; she indicated that once or twice a year when she had to update the computer systems that may require her to stay 15 minutes late after work but more often, she would go home for dinner and then return an hour or so later to do the updates which took about an hour. [REDACTED] indicated sometimes Mr. Parikh would be at the Pharmacy after closing doing something for dinner but for the most part, she was by herself when she was at the Pharmacy after closing.
249. [REDACTED] testified that many seniors and small businesses in the community had charge accounts as well as Pharmacy staff. When a charge account was set up, there was a limit placed on the account; it usually began with a limit of \$250. Seniors whose monthly medications went over the \$250 limit had their limit adjusted but staff were expected to stay more or less around the \$250 limit. Staff are expected to pay their charge accounts at the end of every month after payday and keep on top of the account balance. Most staff kept on top of their charge account balances; however, around Christmas time or the start of school year was a little harder given expenses so staff went over but would ensure to catch up the following month.
250. [REDACTED] was not responsible for monitoring the charge account balances; this was done by [REDACTED] who would flag individuals with high balances. Where there was a concern, [REDACTED] or [REDACTED] would speak to Mr. Parikh who would decide what to do. [REDACTED] recalled a couple times where she contacted someone regarding their charge account to ask them to address the balance by putting a few dollars a month towards it to stop it getting out of hand.
251. In 2019, [REDACTED] became aware that Individual A's charge account balance was getting very high. Prior to 2019, Individual A's account balance would also get quite high, often running around \$2,000 or so and [REDACTED] would address the balance with Individual A in a one-on-one, private conversation. Before around June 2019, Individual A had started getting her account balance down to the point where it stayed around \$1,000, which was good but then the balance suddenly started increasing again. [REDACTED] had a discussion with Individual A in June 2019 when the balance started increasing. After this, Mr. Parikh was made aware of Individual A's high balance, and it was left with him to address. [REDACTED] was not privy to any discussions Mr. Parikh had with staff regarding accounts.

252. [REDACTED] testified that Mr. Parikh would take staff out about once a month for dinner and he would take staff members and their husbands out for dinner for Christmas each year. [REDACTED] recalls that Individual A was very late coming into the 2019 Christmas dinner; she stayed at the dinner with her husband for only a short while before leaving early. [REDACTED] observed that Individual A seemed "remote and upset". After the Christmas party, [REDACTED] could not recall if it was the next day or a couple days later, Individual A approached [REDACTED] and informed [REDACTED] that she had been assaulted. [REDACTED] advised Individual A that she needed to decide what she wanted to do but if she felt she needed to, she should report it.
253. A few days later, [REDACTED] heard other staff talking and realized that Individual A had told them something "more serious" happened than "just saying assaulted". However, she did not hear this from Individual A directly. Individual A did not come into work for a few days before returning back to work. [REDACTED] could not recall exactly when Individual A returned but it was around Christmas break or into January 2020. [REDACTED] indicated that when Individual A came back to work, the atmosphere at the Pharmacy was not good.
254. Leading up to December 2019, [REDACTED] observed Individual A and Mr. Parikh "sniping" at each other when she'd pass by the pharmacy area but because [REDACTED] works in the back or in the front of the store, she missed out on a lot of communication and was not aware of what was going on in the pharmacy area.
255. [REDACTED] identified the document at Exhibit 1, Tab H52, Appendix J, p. 696 as a letter she authored dated April 6, 2020. [REDACTED] testified that around February 2020 someone noticed that Individual A was inputting the wrong amount for gift cards into her charge account; Mr. Parikh therefore asked [REDACTED] to start checking Individual A's charge account, particularly regarding gift cards. Mr. Parikh had noticed Individual A charging gift cards to her account and did not agree with that. [REDACTED] confirmed that gift cards were supposed to be a cash sale and staff knew they were not supposed to charge gift cards to charge accounts.
256. [REDACTED] conducted an audit of Individual A's charge account and noticed discrepancies where Individual A would charge a miscellaneous charge and note it was a gift card, but the amount was not right for a gift card, or miscellaneous charges without a UPC code identifying the item. [REDACTED] therefore took the step of verifying the amounts charged by the gift card provider and was unable to match them with the charges input in the Pharmacy's POS system. The gift card provider identified Individual A as the staff member was putting the gift cards at issue through.
257. [REDACTED] testified it was unlikely that other staff members were using Individual A's code when issuing gift cards because they each had their own code and a lot of the charges were put through when Individual A was working at the Pharmacy, often at the end of the day, or on a Saturday when no other staff were working. [REDACTED] concluded that Individual A was taking advantage of the charge account system and putting through gift card charges improperly to the Pharmacy's loss.
258. In March 2020, after Individual A left employment with the Pharmacy, [REDACTED] texted Individual A to advise that [REDACTED] identified some mistakes; Individual A replied that [REDACTED] should go ahead and fix whatever needed to be fixed. [REDACTED] made the corrections to

Individual A's account in March and May 2020 and Individual A made two \$150.00 payments (March 2020 and May 2020 Statements, Exhibit 1, Tab 52, Appendix J). Individual A's charge account balance as of the end of April 2020 was \$19,315.57. [REDACTED] recalls finding some additional discrepancies after April 2020 but was instructed by Mr. Parikh not to put them on the account but rather keep note of them.

259. [REDACTED] identified the documents at Exhibit 1, Tab H52, Appendix J, p. 700-710 as the monthly statements for Individual A's charge account for the period of June 2019 to March 2020 that [REDACTED] pulled on April 3, 2020, to conduct the audit of the account. The statements contain M.B.'s notations reflecting the discrepancies identified during the audit. [REDACTED] reviewed the statements and identified the gift card discrepancies noted thereon.
260. [REDACTED] identified the document at Exhibit 1, Tab H52, Appendix J, p. 698 as a letter she wrote dated May 4, 2020. The letter represents [REDACTED]'s final accounting of what she found when auditing Individual A's charge account for gift card discrepancies.
261. [REDACTED] identified the document at Exhibit 1, Tab H52, Appendix J, p. 699 as a letter dated May 7, 2020, that she wrote regarding missing Breyer horse inventory discovered after Individual A left work at the Pharmacy. [REDACTED] testified that she asked an employee to inventory the Breyer horse stock to determine what to bring into the Pharmacy for the next season as they needed to do an order. When doing the inventory, they discovered a large quantity of items missing from the period in which Individual A was responsible for ordering the Breyer horse stock to the time she left. The only person who could speak to the missing items was Individual A.
262. [REDACTED] testified to the arrangement Individual A had where she would sell some of the Breyer horse stock directly to individuals and reimburse the Pharmacy; [REDACTED] suspected the missing inventory could be related to this arrangement. [REDACTED] also recalled an instance when Mr. Parikh was in Vancouver for training and called [REDACTED] around 5:30 pm to instruct her to stop Individual A from taking the Breyer horse stock out (almost \$2,400 of stock) of the Pharmacy.
263. [REDACTED] went to the back of the store and saw Individual A loading boxes into her vehicle. When [REDACTED] instructed Individual A to stop and bring the items back into the store, Individual A did so. [REDACTED] understood that Mr. Parikh and Individual A were trying to work out a deal for Individual A to take the items, but it was clear to [REDACTED] that Mr. Parikh had not decided on the deal. and was checking the new security camera footage for the back of the store. This was how he discovered that Individual A was removing the Breyer stock from the store.
264. M.B.'s impression of Mr. Parikh's and Individual A's relationship was that they were friends; she described that Mr. Parikh would invite Individual A's husband and some others to "sit around and visit" and this may have happened in the Pharmacy's back room. [REDACTED] indicated that Individual A's husband would arrive at the Pharmacy a few minutes before the end of the day just before [REDACTED] left. [REDACTED] recalls Mr. Parikh and Individual A being "chummy chummy" for the most part until towards the end of Individual A's employment at the Pharmacy.

265. [REDACTED] described Individual A as someone who did not take direction well, sometimes ignored others and spent a lot of time on her phone, which is not permitted. [REDACTED] also observed Individual A and Mr. Parikh “sniping” at each other but she was not aware what it was about, and she saw things getting tenser.
266. [REDACTED] testified that often in the summer and fall of 2019 she observed Individual A staying at work on the computer rather than going home at the end of the day and commented that she “never really understood what [Mr. Parikh’s and Individual A’s] relationship was or what was going on”.
267. [REDACTED] identified the document at Exhibit 1, Tab H52, Appendix J, p. 713 as the March 2020 charge account statement for Individual C. She explained that Mr. Parikh also asked [REDACTED] about Individual C’s charge account but [REDACTED] had already looked into the balance and spoke with Individual C about it.
268. At the end of March 2020, Individual C contacted [REDACTED] to inquire into her account balance and the amount charged for gift cards. [REDACTED] spoke to her and was under the impression that Individual C was conscious of what she owed and would pay it back. To [REDACTED] knowledge, Individual C did not pay the charge account balance as the matter went to the court and Individual C was advised by her lawyer to hold off on paying it.
269. [REDACTED] was not aware of the allegations that Individual C made against Mr. Parikh. She recalls Individual C talking to others in the Pharmacy about her concern with how Mr. Parikh talked to her about her weight. [REDACTED] described Individual C as having insecurities about the way she looks and speculated that she “may have taken things the wrong way”. [REDACTED] explained that she was not in the pharmacy area very much so did not observe a lot of the interactions between staff there.
270. [REDACTED] did not witness any discussions between Mr. Parikh and Individual C regarding her weight. [REDACTED] recalls Individual C mentioning a prescription for a weight loss drug but it this was “much later” and may have been after Individual C left work at the Pharmacy. [REDACTED] believed the drug was Ozempic because [REDACTED] husband had a prescription for that medication for a period of time. Mr. Parikh was the pharmacist that filled the prescription for [REDACTED] husband and Mr. Parikh paid for the prescription.
271. [REDACTED] was aware of Mr. Parikh’s friend hanging out at the Pharmacy from time to time; she observed that the friend was very friendly and would stay with Mr. Parikh or ride share with Mr. Parikh sometimes.
272. [REDACTED] identified the document at Exhibit 1, Tab H52, Appendix J, p. 712 as the March 2020 charge account statement for Individual B. While [REDACTED] testified that she would have printed the statement, the handwritten notation is Mr. Parikh’s writing and [REDACTED] has no knowledge of the reference to “\$5800 for a dirt bike”.
273. [REDACTED] confirmed that Individual B was a prior employee that worked at the Pharmacy sometime before Individual A joined. [REDACTED] testified that she couldn’t speak to the allegations made against Mr. Parikh regarding Individual B. [REDACTED] recalled that sometimes

when Mr. Parikh and Individual B were on a break, they could get quite loud with each other, which █████ found embarrassing because it could happen in front of customers. This was particularly towards the end of Individual B's employment at the Pharmacy. █████ did not have a clear recollection but indicated the discussions would have to do with Individual B being late for work or her relationship with her boyfriend and things in that manner as well as work-related matters.

274. █████ never saw Mr. Parikh drinking alcohol at the Pharmacy.
275. █████ described Mr. Parikh as personable; he appeared to be a very good pharmacist and had a good memory of what customers required for their medications. She described the work culture of the Pharmacy under Mr. Parikh as a "very friendly atmosphere". M.B believed that Mr. Parikh wanted to be a friend to everyone, he was friendly, good natured and could get along with anyone. As an employer, Mr. Parikh was very accommodating; they sometimes had differences on a couple things relating to time management, but she did not observe Mr. Parikh having extreme moods (i.e., overly happy or overly sad). █████ testified that generally Mr. Parikh's behavior was good with everyone. █████ only noticed Mr. Parikh's interactions "going south" with Individual A and Individual B.

V. **SUBMISSIONS**

1. **Submissions of the Complaints Director**

276. The Complaints Director provided written submissions dated January 6, 2023.

(a) **Burden and Standard of Proof**

277. The Hearing Tribunal must first determine, on a balance of probabilities, whether the conduct set out in the allegations in the Amended Notice of Hearing is factually proven. The burden to prove the allegations falls on the Complaints Director. The applicable standard of proof is the civil standard of a balance of probabilities, requiring an assessment of whether it is more likely than not that an alleged event occurred. If the allegations are factually proven, the Hearing Tribunal must determine whether the proven allegations amount to unprofessional conduct as defined in the *HPA* and misconduct as defined in the *Pharmacy and Drug Act* (the "*PDA*").

(b) **Credibility**

278. The Hearing Tribunal's assessment of witness credibility, and the weight to give to the evidence adduced will be significant in its decision on whether the allegations are proven. The Tribunal is entitled to make its own assessment of credibility and may accept some, all or none of a witness's evidence. In assessing credibility, the Tribunal should examine the whole of the evidence and evaluate contradictory versions of events in light of the standard of proof (balance of probabilities or preponderance of probabilities). The factors used to assess credibility include internal consistency, consistency over time, compatibility and

incompatibility with other evidence, corroboration, plausibility, quality of memory, admissions against interest, evasiveness, exaggeration, bias, motivation, and demeanour.

279. Overall, the evidence of the witnesses called by the Complaints Director was internally and externally consistent, compatible with other evidence, corroborated by others, and plausible. While the memories of Individual A, Individual B and Individual C had faded with time, their evidence is reliable given that it was not evasive, exaggerated, or biased and their demeanors indicated sincerity, noting the emotional difficulty these witnesses had in recounting their experience to the Tribunal. Further, Individual A, Individual B and Individual C have no motive for providing false testimony. This is contrasted against Mr. Parikh who has a motive to provide false testimony given the jeopardy to his professional livelihood.
280. Individual A, Individual B and Individual C were consistent in their testimony that Mr. Parikh was a generous and respected member of the [REDACTED] community who abused the trust of his employees, patients and the community when engaging in the alleged conduct. Their evidence is consistent that Mr. Parikh understood his status in the community and the vulnerability of his employees, which he used to his advantage.

(c) Credibility of Mr. Parikh

281. Mr. Parikh's version of events – that he was a caring, dutiful employer who was taken advantage of by his employees who plotted against him when their charge accounts became too high – is not plausible when measured against the remainder of the evidence. This is because Mr. Parikh's version requires a finding that it is more likely than not that Individual A, Individual B, and Individual C conspired to make up the allegations against him and this occurred sometime after December 2, 2019, when Mr. Parikh learned of the concerns regarding the employees' charge accounts. However, this is inconsistent with the entirety of the evidence submitted. Rather, it is more likely that Mr. Parikh formed his version of events after Individual A made complaints to the RCMP and the ACP. The following evidence supports this conclusion:
- On multiple occasions after December 2, 2019, Mr. Parikh offered to clear Individual A's Pharmacy charge account and pay money towards her other debts;
 - Individual A made her complaint to the ACP and the RCMP after Mr. Parikh paid money towards her debts;
 - Individual B was reluctant to speak to Individual A or participate in the ACP investigation, wanting to put the events of 2015-2016 behind her;
 - Individual A, Individual B and Individual C were visibly emotional when asked to recount their experiences working for Mr. Parikh to the Hearing Tribunal;
 - Individual C does not corroborate Individual A's allegations of sexual abuse or misconduct beyond confirming that Individual A told her she was being raped by Mr. Parikh. She does not purport to have witnessed the sexual abuse or sexual misconduct, but raises her own distinct concerns;

- All of the women acknowledge the balances owing on their Pharmacy charge accounts;
- Mr. Parikh says that on December 2, 2019, [REDACTED] raised concerns with how Individual A and Individual C were taking credit cards like cash, but he did not ask [REDACTED], the front store manager, to investigate the matter until April 3, 2020, approximately four months later and after Individual A made her complaint to the ACP and the RCMP, and when he had motivation to seek retribution against Individual A; and
- Despite lengthy direct examination, it was only when put to him under cross-examination and in response to a direct question from the Hearing Tribunal, that Mr. Parikh specifically denied having sex with Individual A or Individual B.

282. Mr. Parikh's recollection should be given little weight because his recollection indicates his attempt to create explanations for the inappropriate conduct by reconstructing events in a manner that lacks credibility.
283. During his testimony, Mr. Parikh continually failed to provide direct answers to questions and appeared unaware or dismissive of the gravity of the allegations. For instance, while Mr. Parikh's direct testimony about Individual B spans approximately 26 pages of transcript, his response to the question "What period did [Individual B] work at the pharmacy" is 6 pages in length and is incomplete.
284. Further, when asked what his response to Individual B's testimony was, Mr. Parikh stated he was completely shocked, but did not deny the allegations she made against him, and Mr. Parikh suggested that Individual B randomly jumped on and kissed him and others throughout the time they knew each other. This information was not provided to Individual B, Mr. Krempien or Mr. Acton; it was only included in Mr. Parikh's evidence as an afterthought to assist his testimony without directly challenging Individual B on cross-examination.
285. Mr. Parikh was able to recall the exact events in which Individual A's and Individual C's allegations arose but had an alternative version of events that presented him in a better light. Specifically, in the case of Individual A, Mr. Parikh recalled that he needed to brush his teeth on a specific evening because there was garlic and onion in his food and on that occasion, she asked him if he planned to kiss anyone. Mr. Parikh then puts himself in the role of dishwasher, at which time Individual A approached him and touched her chest to him. He further explained that although he doesn't drink in the pharmacy while it is open to the public, he fell into Individual A by the fridge while he was on his way to the bathroom because he'd had too much to drink by 6:15 pm; however, the Pharmacy closed to the public at 6:00 p.m.
286. In the case of Individual C, Mr. Parikh tried to explain why people may spend time looking at her nametag.

(d) Credibility of Individual A

287. Any argument by Mr. Parikh that Individual A's evidence is not credible because she owed money to the Pharmacy from her charge account, she did not report the sexual abuse for over a year, she continued to work with Mr. Parikh and socialize with him, and she struggled to provide a detailed recollection of the dates the sexual abuse occurred is not persuasive.
288. Mr. Parikh made multiple offers to assist Individual A financially, she admitted to charging items to her account to get back at Mr. Parikh, and she still has not paid off the charge account despite a civil claim being filed against her for the same.
289. The information provided by Individual A's physician indicated that: Individual A attended the emergency room on December 12 and 17, 2019 and described inappropriate advances by her employer, the pharmacist; Individual A described the harassment she was experiencing from Mr. Parikh in more detail during a February 20, 2020 visit with the physician assistant; Individual A was tested for a sexually transmitted disease at the emergency room on February 21, 2020; and Individual A's physician felt Individual A was truthful. Mr. Acton testified that, in professional experience, it is not odd that the first person told about the ongoing sexual abuse was a walk-in emergency room doctor.
290. While not qualified as an expert witness, Mr. Acton's evidence was that, in his experience, "interactions between abuser and victim can be very odd in a common-sense manner. And so giving gifts to somebody may be – may occur. And [he doesn't] think we could assume that that's an indication that [Mr. Parikh] was not abusing [Individual A]".
291. Mr. Acton's testimony is consistent with approach taken by the court and other regulatory decision-makers to ensure that assessment of a complainant's credibility in a sexual abuse matter is not based on myths or stereotypes of how victims of assault should behave. Specifically, the Hearing Tribunal in *College of Physicians and Surgeons of Ontario v Dr. X* warned against assuming a victim of sexual assault will complain immediately or avoid the alleged perpetrator following the assault. Credibility must be assessed based on the evidence, not assumptions.
292. The consistent thread in Individual A's evidence, as was the case with Individual B and Individual C, was that she continued to keep up appearances in her social relationship with Mr. Parikh because she was proud of her job at the Pharmacy, needed financial support, and she did not think that in the town her word would be believed over a pharmacist's.

(e) **The Browne v. Dunn Issue**

293. Mr. Parikh's failure to adhere to the evidentiary rule from *Browne v. Dunn* must be considered by the Tribunal when assessing the credibility and weight given to Mr. Parikh's evidence.
294. The rule in *Browne v. Dunn* requires that a party put a matter or point to a witness in cross-examination if the party intends to later adduce contradictory evidence as part of an argument. While the rules of evidence applicable in judicial proceedings do not bind the

Hearing Tribunal (per s. 79(5) of the *HPA*) the Tribunal should still strongly consider the evidentiary rule and Mr. Parikh's failure to comply with it.

295. In assessing Mr. Parikh's credibility, the Tribunal should place emphasis on the fact that Allegations 1 and 2 or the specific particulars were not put to Individual A during cross-examination and Allegation 3 or its particulars were not put to Individual B. Similarly, Mr. Parikh's explanations for particular incidents were not put to these witnesses during cross-examination. The failure to abide by *Browne v. Dunn* in this regard means that other than Mr. Parikh's evidence denying the allegations, which is not credible, Individual A's and Individual B's evidence of Mr. Parikh's conduct remains unchallenged.
296. On this basis, along with the other issues of Mr. Parikh's credibility raised, the Tribunal should not accept Mr. Parikh's evidence as credible.

(f) Other Evidence

297. Little to no weight should be given to the evidence of [REDACTED], [REDACTED] or [REDACTED] or the letters submitted by members of the community to Mr. Krempien during the investigation (located at Exhibit 1, Tabs H34-37 and H47). While the letters indicated the authors' support of Mr. Parikh continuing practice, most letters acknowledged that the authors had no direct knowledge of the Complaint.
298. Similarly, [REDACTED], [REDACTED] and [REDACTED] each testified to how infrequently they attended the Pharmacy when it was closed and that they worked at the front of the store so did not have a good perspective on what occurred in the back. Accordingly, these witnesses do not have direct information to assist this Tribunal in determining whether the allegations are factually proven.

(g) Allegation 1

299. The evidence demonstrates Allegation 1 is factually proven. It is undisputed that Individual A was an employee of the Pharmacy and had been since 2009. It is also undisputed that Individual A was a patient of the Pharmacy and received professional services from Mr. Parikh. This is supported by the Netcare records obtained by Mr. Krempien during the investigation at Exhibit 1, Tabs H41 and H42. There is also no dispute that Individual A and Mr. Parikh had a friendly relationship over a number of years and that Individual A's husband was friends with Mr. Parikh.
300. The allegation is factually proven based on the following evidence:
301. On one evening after the Pharmacy had closed, she and Mr. Parikh were in the kitchen, which is galley style and has a sink on one side with the fridge on the right. Individual A tried to leave the sink, but Mr. Parikh blocked her by putting his hand on the fridge, tried to kiss Individual A and stated that if Individual A did not have sex with him, he would end up raping her. Individual A felt that it would be better to shut off her brain and go along with it than have Mr. Parikh forcibly take her. Mr. Parikh told Individual A to go to the storage room, which was a room to the left of the kitchen; he placed some sweaters on the

floor of the room and made Individual A lie down before taking off her pants, following which Mr. Parikh had sex with Individual A. Individual A stated that Mr. Parikh continued in this behavior about two to three times per week for the entire year.

302. If Individual A asked Mr. Parikh not to have sex with her, he would agree in the moment but treat her very poorly the next day, which she viewed as Mr. Parikh punishing her for not having sex with him. Individual A felt she had to keep her job at the Pharmacy to support her family given it is a small town and difficult to find a job.
303. Mr. Parikh's provided an alternate version of events to the one outlined by Individual A in his direct examination. However, Mr. Parikh did not specifically deny Individual A's allegations until they were directly put to him in cross-examination and in answer to a question posed by the Hearing Tribunal.
304. Individual A's testimony regarding Allegation 1 is more credible than Mr. Parikh's as it is largely internally and externally consistent, and she has no convincing motivation to provide false testimony. Further, Individual A's evidence regarding Allegation 1, or its particulars, was not challenged on cross-examination in accordance with the rule in *Browne v. Dunn*. The Hearing Tribunal should not draw any inferences from the fact that Individual A does not have a perfect recollection of events, did not quit her job, did not keep contemporaneous notes of the instances of abuse or report what was happening to anyone until a year had passed.
305. If the Tribunal finds the conduct alleged in Allegation 1 is proven, it should find that it constitutes sexual abuse. The definition of sexual abuse under the HPA and the ACP's Standard of Practice: Sexual abuse and sexual misconduct came into force on April 1, 2019. The alleged conduct started before April 1, 2019 and continued until at least September 2019, if not longer. Accordingly, provisions in the HPA relevant to the definition of sexual abuse and the relevant sections of the Standard of Practice should be applied to the alleged conduct that occurred from April 1, 2019 onward.
306. For conduct found to have occurred before April 1, 2019, the provisions of the HPA and the Standard of Practice: Sexual abuse and sexual misconduct do not apply. However, the common definition of sexual abuse applies in this case because Individual A's evidence does not indicate a consenting sexual relationship between two individuals. Rather, Individual A felt compelled to have sexual intercourse with Mr. Parikh and did not actively or positively consent to doing so. Individual A shut her brain off to the action and on days when she asked Mr. Parikh not to have sex with her, she felt she was punished the next day.
307. Furthermore, the conduct, if proven, breaches the Code of Ethics and Standards of Practice as follows:
ACP's Code of Ethics:
- Principle 1(1) – the conduct is far from the patient's best interest;
 - Principle 1(7) – the conduct does not safeguard a patient;
 - Principle 1(8) – the conduct does not prevent harm to a patient;

- Principle 1(9) – the conduct exploits a patient for personal advantage;
- Principle 1(10) – the conduct creates a conflict of interest between patient and pharmacist; and
- Principle 3(3) – the conduct represents an extreme failure to maintain professional boundaries.

308. Standards 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians (the “SOP-Pharmacists”) and Standards 1.1 and 1.2 of the Standards for the Operation of Licensed Pharmacies (the “SOP-Licensed”) because the conduct breaches the letter and spirit of the legislation that governs the profession; and Standard 2.1 of the SOP-Pharmacists, which requires pharmacists to establish and maintain professional relationships with their patients and act in the best interest of their patients. Contrary to this, throughout the relevant time, Individual A was both Mr. Parikh’s employee and patient, meaning there was an inescapable power imbalance present. Individual A testified that she felt she had to let the behavior continue to keep her job and support her family.
309. The conduct alleged in Allegation 1 is some of the most egregious conduct that can come before a Hearing Tribunal and should be found to be unprofessional conduct under the HPA on the basis that the conduct breaches the ACP’s Code of Ethics, contravenes another applicable enactment (i.e., the PDA), and is harmful to the integrity of the profession. Similarly, it should be found to be misconduct under the PDA because the conduct contravenes the Code of Ethics, is detrimental to the public interest, contravenes the HPA, and harms the integrity of the profession.

(h) Allegation 2

310. Allegation 2 is proven based on Individual A’s evidence summarized as follows: One evening Individual A and Mr. Parikh stayed after hours at the Pharmacy to do inventory. Mr. Parikh had been drinking and after returning from the bathroom, he stood beside Individual A and told her he had just brushed his teeth and asked for a kiss. Individual A said no and left shortly after. Mr. Parikh apologized the next day for his behavior and stated it was due to the alcohol he had been drinking.
311. On another evening after the Pharmacy had closed, following Mr. Parikh’s return from vacation, Individual A was at the sink of the Pharmacy kitchen washing dishes from the day while Mr. Parikh sat at the kitchen table. They were making conversation and Individual A asked about Mr. Parikh’s vacation. Mr. Parikh responded by telling Individual A that he spent every night masturbating to the thought of her.
312. Individual A’s evidence is more reliable and should be preferred over the conflicting evidence provided by Mr. Parikh. Mr. Parikh offered an alternate version to explain away the events by placing the blame on Individual A as the one that made the comments at issue (bringing up a kiss and telling him he didn’t need porn because she was there). He offered an alternate version on direct examination and did not deny Individual A’s allegations, that he asked for a kiss and told her he masturbated to the thought of her, until they were put to Mr. Parikh

during cross-examination. Furthermore, Individual A's allegations in this regard were not challenged during her cross-examination.

313. There is a discrepancy between Individual A's evidence before the Hearing Tribunal and the notes she made on February 19, 2020, at Exhibit 1, Tab H52, Appendix F regarding whether this conduct at issue in Allegation 2 happened during one evening or over the course of two separate evenings. However, despite testifying that consistent stories are important for credibility, Mr. Acton testified based on his experience that it is possible for victims of sexual abuse to conflate events. The discrepancy was put to Individual A on cross-examination and at that time, Individual A admitted her memory of that period of time is foggy and she had blocked much of it out. Ultimately, whether the conduct occurred on one day or over two days, Individual A's evidence is consistent in terms of the chronology of events and what happened.
314. If the conduct is factually proven, it should be found to constitute sexual misconduct and therefore unprofessional conduct under the HPA and misconduct under the PDA. The definition of sexual misconduct under the HPA was not in force at the time of the conduct alleged in Allegation 2. However, the Hearing Tribunal may reference the definition which defines sexual misconduct as: any incident or repeated incidents of objectionable or unwelcome conduct, behaviour, or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being but does not include sexual abuse.
315. A pharmacist suggesting to a patient or their employee that they want a kiss or telling a patient or employee that they masturbated to the thought of that person is clearly objectionable behavior. In addition, Individual A's evidence was that the conduct was unwelcomed and unreciprocated.
316. Further, if proven, the conduct outlined in the particulars of Allegation 2 breaches the Code of Ethics and Standards of Practice as follows:
- Standards 1.1, 1.2 and 2 of the SOP-Pharmacists
 - Standards 1.1 and 1.2 of the SOP-Licensed because the conduct breaches the letter and spirit of the legislation that governs the profession; and
 - Principles 1, 3 and 10 of the Code of Ethics.
317. The conduct also falls under the definition of misconduct under the PDA because the conduct contravenes the Code of Ethics, is a breach of the PDA, is detrimental to the public interest, contravenes the HPA and harms the integrity of the profession.

(i) Allegation 3

318. There is no dispute that Individual B was both an employee, a patient of the Pharmacy and received professional services from Mr. Parikh. The allegation is factually proven based on

the following testimony from Individual B. She was initially excited to work at the Pharmacy but now describes her experience there as a nightmare, stating Mr. Parikh created an emotionally, physically, and mentally abusive environment.

319. When Individual B asked Mr. Parikh for a \$50 advance on her paycheque, he gave the money to her on the condition that she perform oral sex on him. Following this, Mr. Parikh had sex with Individual B in the back room of the Pharmacy after everyone else was gone. Occasionally, Mr. Parikh would give her money, which she considered to be in exchange for sex. Mr. Parikh once paid her \$500, which she used to pay for gas and buy her son a snowsuit.
320. The sexual abuse by Mr. Parikh occurred two to three times a week for about a year between 2015 and 2016 until she started dating and told her then boyfriend about what was happening to her.
321. She knew that she would be expected to have sex with Mr. Parikh when he would say to her that she was the boss or would call her by an acronym that stood for “Slave [Individual B’s first and last name]”. Mr. Parikh would take Individual B to the back room of the Pharmacy, lay a jacket or sweater down and tell her to lie down. He would clean himself up in the bathroom, lie down beside Individual B and start taking her clothes off, then lie on top of her and have sex with her.
322. No inferences should be drawn from the fact that Individual B did not report the abuse to others or continued to work in the Pharmacy while it occurred. Individual B’s evidence is that she was a victim of abuse by not just Mr. Parikh but other men she dated. Individual B did not come forward about her abusers and rather, described her situation as one she thought she just had to live with. Individual B testified to feeling embarrassed and not wanting to talk about the abuse; she instead tried to push it under the rug until Individual A approached her. Similarly, no inferences should be drawn from Individual B returning to the Pharmacy after the abuse by Mr. Parikh ended. Rather, evidence of Individual B visiting the Pharmacy in as late as 2018 speaks to the fact that the town is very small and that Individual B’s father and her son’s father live in the town.
323. Overall, there is nothing in Individual B’s testimony that indicates a lack of credibility. Individual B’s evidence regarding the conduct alleged in Allegation 3 was not challenged on cross-examination. Mr. Parikh did not lead evidence in direct examination denying Individual B’s allegations. Rather, he only denied the allegations when asked in cross-examination or by the Hearing Tribunal.
324. If the conduct at issue in Allegation 3 is factually proven, then it should be found to constitute unprofessional conduct under the HPA because it breaches the Code of Ethics, contravenes the PDA and is harmful to the integrity of the profession. It also constitutes misconduct under the PDA because the conduct breaches the Code of Ethics, is detrimental to the public interest, contravenes the HPA, and harms the integrity of the profession.
325. The conduct occurred in 2015 and 2016 and therefore preceded the definition of sexual abuse incorporated into the HPA as of April 1, 2019. Nevertheless, the serious nature of the

conduct needed to be referred to the Hearing Tribunal. Individual B was a vulnerable patient when she sought an advance on her pay cheque and Mr. Parikh asked her to perform oral sex; notably, she was a single mother and wanted to keep her job at the Pharmacy. Mr. Parikh's conduct constitutes a deplorable failure to uphold his obligations as a pharmacist and as an employer to uphold the ACP's Code of Ethics and maintain a professional relationship and boundaries with his patient and employee.

(j) Allegation 4

326. It is not disputed that Individual C was both a patient and employee of the Pharmacy or that she received professional services from Mr. Parikh. Mr. Parikh's evidence included that: Individual C created the story about him commenting on her weight; Individual C approached him about a conversation she had with her doctor; his conversations with Individual C about her weight were as a patient; Individual C laughed about people staring at her chest; it was sometimes uncomfortable to ask a person's name and you had to look at someone's nametag but that her allegations were ridiculous because he didn't need to look at her name tag; and the "friend" Individual C was concerned about was a patient, not a friend, and that only on one occasion did they hang out at the Pharmacy after this individual brought him a bottle of wine.
327. In contrast, Individual C's evidence across contemporaneous text messages to Mr. Parikh, her interview with Mr. Acton, and her testimony before the Hearing Tribunal was that the conduct occurred as alleged. In her testimony, Individual C described how Mr. Parikh would tell her to walk to work, drink hot water and lose weight to look better. She became emotional when describing how customers would come in with treats and snacks and Mr. Parikh would give the food back to the customers and say, "there's enough fat here, that these girls don't need this."
328. Individual C also stated that she wore her nametag up front, but did not wear it after a point in time because she would catch Mr. Parikh staring at her chest and when she confronted him, he would jokingly say "I was just looking at your name, what's your name again?"
329. She described the "friend" of Mr. Parikh as someone who drank with Mr. Parikh in the back of the Pharmacy a few times, as mentally unstable. She stated that this man scared her a few times. He told her he wanted to be with a widow. He wanted to get rid of her husband so he could be with her. He would stand there and watch her work. Mr. Parikh would just laugh. She explained to him that she was terrified of him, and he just laughed.
330. From her perspective, although Mr. Parikh was providing her prescriptions to assist with her weight loss, she believed the comments he made to her were not clinical in nature. For the reasons discussed above, the Complaints Director submits that Individual C's testimony is more credible than Mr. Parikh's on these facts. Individual C was emotional during her recollection of working at the Pharmacy and her evidence was internally and externally consistent and plausible. Although she did owe money on her charge account, it is noteworthy that the allegations she raised in text messages to Mr. Parikh were made before Mr. Parikh asked [REDACTED] to look into her Pharmacy charge account and before Mr. Parikh filed a civil claim to recover the balance owing on the account.

331. On the other hand, Mr. Parikh is motivated to protect his professional reputation and to downplay the time he spent with friends drinking in the Pharmacy and he showed no empathy or insight into Individual Cs interpretation of his conduct.
332. If the Hearing Tribunal finds that Allegation 4 is factually proven, then the Complaints Director submits the Hearing Tribunal should also find that the proven conduct constitutes unprofessional conduct and misconduct under sections 1(1)(pp)(iii) and 1(1)(pp)(xii) of the HPA and sections 1(1)(p)(ii), 1(1)(p)(vi) and 1(1)(p)(ix) of the PDA.

(k) Allegation 5

333. While Individual D was prepared to attend the hearing dated in June 2022 and was served with a Notice to Attend for the November 2022 hearing dates, she could not be contacted by counsel and did not provide testimony before the Hearing Tribunal.
334. The subject matter of Allegation 5 was put to Mr. Parikh under cross-examination, and he denied the particulars. However, the Complaints Director submits that the balance of the evidence before the Hearing Tribunal should be considered and preferred.
335. Although the Hearing Tribunal did not have the benefit of hearing from Individual D directly, it does have access to the transcript of the interview she had with Mr. Acton. Neither Mr. Parikh nor his counsel challenged the validity of the transcript.
336. In her June 26, 2020 interview with Mr. Acton, Individual D stated she worked for Mr. Parikh between approximately December 2013 and February 2014. She stated that she did not think he was a bad guy but that she left because of things he was saying to her. She was approximately 19 years old when she worked for Mr. Parikh. She described that she felt uncomfortable with him, in part, because he would invite her to stay after work to drink and to go for drinks on a regular basis and that he indicated to her that it was ok to have an affair against your wife. Individual D also stated that after she started working out more, Mr. Parikh would comment on the changes in her body and that she was starting to look better. She said this made her start wearing baggy clothing. Mr. Acton testified that he had no reason to believe Individual D was not a credible witness.
337. The Complaints Director submits that the interview transcript is sufficient evidence to prove on a balance of probabilities that Mr. Parikh commented on Individual D's body shape, invited her to stay after work to drink with him in the Pharmacy, invited her to go to the bar with him after work and suggested to her that it was ok to cheat on a wife as long as you still loved them.
338. The Complaints Director is not aware of Individual D having any motivation to provide inaccurate information to Mr. Acton. Her information is consistent with what Individual A provided evidence she had spoken to Individual D about. In contrast, Mr. Parikh is motivated to disprove the allegations against him.

339. If the Hearing Tribunal finds that Allegation 5 is factually proven, then the Complaints Director submits the Hearing Tribunal should also find that the proven conduct constitutes unprofessional conduct and misconduct under section 1(1)(pp)(xii) of the HPA.

(l) Allegation 6

340. In response to Mr. Wolff asking whether he would “drink at the premises during opening hours”, Mr. Parikh denied drinking during opening hours but suggested he did drink and hang out with friends when he stayed overnights in town. He made similar denials of drinking while the Pharmacy was open to the public when he was under cross-examination.
341. When asked if there was anything he would drink in the Pharmacy over the course of the day, Mr. Parikh discussed drinking a cup of warm water with lemon and honey. However, when examined closely, Mr. Parikh’s testimony becomes internally inconsistent and implausible.
342. First, Mr. Parikh suggested that Individual A insisted he drank alcohol in the Pharmacy after 5pm in October 2019. He also suggested that on the day he supposedly fell into Individual A in the kitchen, it was because around 6:15 pm, he lost his balance and had maybe “had more drink, which [he was] not supposed to have” and then needed to use the bathroom. Based on the preponderance of possibilities, it is unlikely that Mr. Parikh would have been drinking a non-alcohol beverage that he was “not supposed to have” or that if he had only started drinking after the Pharmacy closed at 6 pm, he would have lost his balance or needed to use the washroom because of the drinks he had had, within a 15-minute period. More likely, Mr. Parikh had been consuming some of the alcohol he kept in the kitchen before the Pharmacy was closed to the public.
343. Furthermore, Individual A and Individual C reported seeing Mr. Parikh drink beer and vodka in the Pharmacy, starting on occasions around 5 pm before the Pharmacy closed for the night. Individual A explained that Mr. Parikh would pour orange juice and vodka in a cup to disguise it and would at times be sloppy when he was providing care to patients of the Pharmacy.
344. Both Individual A and Individual C were independently consistent in their recollections and their testimony was corroborated by the fact that Mr. Parikh had kept alcohol on the premises for his personal use. Mr. Parikh’s suggestion that he put hot water in a cup or that because on the day he was arrested by the RCMP he claims he was sober, should be given less weight.
345. The Complaints Director submits that Mr. Parikh’s evidence was internally and externally inconsistent and implausible and that the evidence of Individual A and Individual C should be preferred.
346. Principle 11 of the ACP’s Code of Ethics requires members to take responsibility for themselves, including under Principle 11(5), a requirement not to misuse or abuse substances. The ACP’s Code of Ethics applies equally to pharmacists and licensees. Failing to uphold this Principle is unprofessional conduct under sections 1(1)(pp)(ii) and

1(1)(pp)(xii) of the HPA because it contravenes the Code of Ethics and is harmful to the integrity of the profession. It is also misconduct under the PDA because it contravenes the Standards for the Operation of Licensed Pharmacies and therefore contravenes the PDA (section 1(1)(p)(i)), is detrimental to the public interest (section 1(1)(p)(ii)) and harms the integrity of the profession of pharmacy (section 1(1)(p)(ix)).

347. As a pharmacist, Mr. Parikh is an entrusted health care provider who regularly provided advice and prepared and dispensed drugs to his patients. There is no leeway for pharmacists to be under the influence of substances, including alcohol, while providing professional services. It is also inappropriate for a pharmacist to be drinking in the Pharmacy while the Pharmacy is open to the public, and when employees are continuing to provide services. This behaviour decreases the public's trust in the profession and undermines its integrity. It also creates potential for patient harm if professional services are provided by a pharmacist under the influence of substances.
348. Similarly, as a licensee, Mr. Parikh was responsible for the Pharmacy's operations and in accordance with Standard 2.1 of the Standards for the Operation of Licensed Pharmacies was prohibited from practicing under any condition that compromised his professional independence, judgment, or integrity. It was thus unacceptable conduct for him to drink or practice while supervising employees or providing professional or pharmacy services to the public.

2. Submissions of Mr. Parikh

349. Mr. Parikh argued that the allegations against him have not been factually proven on a balance of probabilities and he has not engaged in conduct that falls under the definition of unprofessional conduct under the HPA or the definition of misconduct under the PDA.

(a) Browne v. Dunn

350. The Hearing Tribunal should not consider the rule in *Browne v. Dunn* in this proceeding at all let alone strongly consider the impact of the rule as requested by the Complaints Director. Section 79(5) of the HPA means the Hearing Tribunal is not bound by the rules of evidence applicable in judicial proceedings and may hear the evidence it deems appropriate. Further, at no time during the hearing did the Complaints Director raise an objection on the basis of *Browne v. Dunn*.
351. In terms of the remedy should there be a breach of the rule, if this Hearing Tribunal finds it necessary, the most common remedy is to permit the witness whose credibility is impeached to be recalled. However, the Alberta Court of Appeal's decision in ■ v. *Scheideman*, 2001 ABCA 94 makes it clear that the rule in *Browne v. Dunn* does not require that the decision-maker accept the witness's evidence where the witness has not been cross-examined on a specific point.

(b) Witness Credibility

352. Many factors may be considered in determining a witnesses' credibility, including consistency with the probabilities that surround the circumstances, propensity to exaggerate, ability to remember, ability to describe what has been seen and heard, motive, inconsistency with prior statements, and consistency with documentary evidence.

(i) Credibility of the Complaints Director's witnesses

353. Individual A was only able to describe moderate details of the alleged sexual assaults despite allegedly being assaulted over a hundred times. There exist different versions of Individual A's recounting of the alleged assaults. Both Individual A and Individual C described Mr. Parikh as being circumcised, despite each admitting that they had never seen his penis.

354. Concerns with Individual A's testimony are not limited to her memory. In contrast to the observations of Mr. Parikh and Mr. Acton, and despite her own acknowledgement of indebtedness to Impresa and the Pharmacy, Individual A denied being under any significant financial stain in late 2019. Individual A's assertion that she did not undercharge the Pharmacy for gift cards is inconsistent with the documentary evidence provided by [REDACTED] who clearly demonstrated that Individual A engaged in such a practice. Individual A's evidence on financial issues calls into question her credibility as a witness as it is not externally consistent or compatible with other evidence.

355. On the whole, Individual A's sexual assault allegations stand in stark contrast with the normalcy demonstrated through her text message exchanges with Mr. Parikh and her maintaining of a friendly social relationship with Mr. Parikh. Such dissonance should not be ignored on account of avoiding basing findings of credibility on myths or stereotypes about how sexual assault victims should behave.

356. To the contrary, the Hearing Tribunal should accept Dr. Acton's evidence that it would be odd for a victim of sexual assault to have a normal interaction with an abuser. Mr. Parikh's position is that Individual A's maintenance of a friendly, normal relationship with him throughout the period that he was allegedly sexually abusing her is irreconcilable with the allegations themselves.

357. The Hearing Tribunal must consider the extraordinary timing of Individual A's allegations against Mr. Parikh. The evidence of [REDACTED] [REDACTED] and Mr. Parikh suggests that the issue of Individual A's growing charge account was coming to a head prior to the 2019 Christmas party. It is entirely plausible that Individual A would have known that she would soon have to confront her debt, presenting a clear motive to provide false testimony.

358. Individual C's evidence suffers from assumption, if not outright exaggeration. She confidently states that she knew [REDACTED] and Mr. Parikh were talking about her weight despite not understanding their language. Mr. Parikh provided Individual C with free weight loss medication, consistent with multiple accounts of his generosity. Her suggestion that Mr. Parikh "thought [he] could get [her] skinny enough that maybe [she'd] be [his] next victim" is entirely incompatible with the fact that Mr. Parikh provided the same weight loss drug to [REDACTED] husband, also free of charge.

(ii) Credibility of Mr. Parikh's witnesses

359. Mr. Parikh's evidence demonstrated his clear memory. He was able to both provide lengthy evidence containing detailed recollections of people, places and times and respond to pointed questions on cross-examination with clear and direct answers. He expressed genuine indignation in relation to the allegations. Such indignation is consistent with that of a generous and respected community pharmacist who is facing serious and false allegations that have upended his life.
360. The Complaints Director suggests Mr. Parikh has a motive to provide false testimony because his professional livelihood is at risk. The implication of such an approach to assessing Mr. Parikh's testimony is that anytime a pharmacist facing serious, career-altering allegations is being assessed for credibility, said assessment should assume a motive to provide false testimony. The Hearing Tribunal should focus instead on the content and plausibility of Mr. Parikh's account as follows:
- Mr. Parikh's offer to clear Individual A's Pharmacy charge account and pay money towards her other debts is entirely consistent with his well-evidenced generosity. Mr. Parikh did not wish to lose a valued employee who he thought he slighted at the 2019 Christmas party; he responded accordingly, and not in a manner that is inconsistent with his generosity.
 - Individual A was in significant debt to the Pharmacy at the time she made her complaint to the ACP and the RCMP.
 - Individual B had already been contacted by Individual A prior to the ACP and RCMP investigations.
 - As stated in *Faryna v. Chorny*, a finding of credibility is not to depend solely on the better appearance of sincerity in the witness box.
 - As noted in paragraph 50 above, Individual C's evidence is susceptible to assumption making in relation to events she did witness, let alone events she did not witness.
 - Individual A has failed to acknowledge the overcharging of gift card values to her charge account.
 - Mr. Parikh's behavior is consistent with someone who is generous with his money and lax on collecting debts and attending to his finances in general. By his own admission, Mr. Parikh was inclined to procrastinate on the issue of the swelling charge account debts. The Hearing Tribunal should not cast negative judgment on Mr. Parikh's delay in realizing the seriousness of the situation any more than it should cast negative judgment on the significant passage of time that occurred before the alleged sexual assaults were reported.
 - Mr. Parikh should not be punished for his long-windedness. Direct examination calls for open-ended questions, often resulting in open-ended answers. Mr. Parikh was straightforward when asked a direct question by the party bearing the burden to prove the allegations.

361. The Complaints Director was dismissive of the evidence of [REDACTED], [REDACTED], and [REDACTED]. The evidence of these women should be of great value to the Hearing Tribunal for the following reasons:
- [REDACTED] evidence demonstrates Individual A consistently and systematically undercharged her charge account, raising serious concerns regarding Individual A's credibility as a witness.
 - [REDACTED]'s evidence establishes that Individual A was aware that employees of the Pharmacy were aware her high charge account balance and that it was an issue that was destined to come to a head in the near future.
 - Neither [REDACTED] nor [REDACTED] ever witnessed Mr. Parikh drinking alcohol at the Pharmacy. [REDACTED] evidence is especially compelling considering she held a managerial role and worked until 6:00 p.m.
362. M.B., who testified she was integral in developing the Pharmacy's inventory control/POS system, gave clear evidence, unchallenged by the Complaints Director, that Individual A was manipulating the charge account system to undercharge herself for gift cards, to the Pharmacy's detriment. Individual A flatly denied this accusation. If the Hearing Tribunal accepts [REDACTED] findings that Individual A intentionally manipulated the Pharmacy's charge account system to deprive the Pharmacy of the true value of gift cards as opposed to merely "blindly charging" large amounts to her account in anger, then it must accept that Individual A acted fraudulently. An assessment of Individual A's credibility must take place in light of her apparent fraudulent conduct.

(c) Allegation 1

363. A notebook authored by Individual A on February 19, 2020, describes the allegations regarding Mr. Parikh using his body to block Individual A against a fridge and telling Individual A that he masturbated to the thought of her as taking place on separate evenings. However, in her interview with ACP's investigator Dr. Robert Acton, Individual A described the two allegations as taking place on the same evening. Dr. Acton stated under cross-examination that consistency of Individual A's story "is really an important factor to consider in credibility" and that this inconsistency in Individual A's evidence was not reflected in his investigation report as part of his assessment of Individual A's credibility. Under cross examination, Individual A stated that the notebook's version of events is accurate.
364. Dr. Acton stated that Individual A was only able to describe moderate details of the alleged sexual assaults despite allegedly being assaulted over a hundred times. Further, under cross-examination, Individual A stated she had "no idea" what evenings Mr. Parikh was staying in the town during the period the alleged assaults, which allegedly took place in evenings, were occurring.
365. Mr. Parikh describes Individual A as a "great" and "smart" employee who worked from 10:00 a.m. to 6:00 p.m. Mr. Parikh's evidence is that he and Individual A maintained a social relationship outside of work and that he maintained a social relationship with her husband.

Dr. Acton noted that the text message exchanges between Mr. Parikh and Individual A prior to the allegations surfacing contained nothing unusual. Further, Dr. Action stated that it would be odd of the victim of a sexual assault to interact in a normal fashion with their abuser.

- 366. Mr. Parikh described a change in Individual A and her husband's financial situation in August 2019. Dr. Acton found that "she was under considerable financial stress". Individual A denied being under significant financial strain at the time.
- 367. In 2015, Individual A started an initiative whereby the Pharmacy would sell model horses. Mr. Parikh gave evidence in early-February 2020, he saw live security footage of Individual A removing model horses from the Pharmacy. Pharmacy employee [REDACTED] gave evidence that her April 2020 inventory of the model horse stock found that thousands of dollars of stock had gone missing and that only Individual A could account for the missing stock.
- 368. Mr. Parikh described an instance whereby Individual A told him that he doesn't need to watch porn because she was there. Mr. Parikh describes Individual A's actions as an attempt to "lure" him in October 2019.
- 369. Dr. Acton's investigation report found that Individual A and Individual B noted that Mr. Parikh was circumcised. However, under cross-examination, Individual A admitted she had never seen Mr. Parikh's penis. Mr. Parikh's evidence is that he is not circumcised, as reflected in Dr. Acton's report. Dr. Acton did not consult with a medical expert on a potential reason for this discrepancy.

(d) Allegation 2

- 370. Mr. Parikh denies these allegations. Mr. Parikh renovated the Pharmacy to include a small cooking area for him to prepare meals. Mr. Parikh's evidence is that he would cook food containing lots of onion and garlic at the Pharmacy. Mr. Parikh described a time when he brushed his teeth in the Pharmacy bathroom and Individual A inquired whether he "had a plan to kiss".

(e) Allegation 3

- 371. Mr. Parikh's evidence is that in 2012, Individual B sought a \$5,800 loan from Mr. Parikh to purchase a dirt bike for her boyfriend, which Mr. Parikh provided. Mr. Parikh also gave evidence that he caught Ms. Morrison stealing \$1,600 from the Pharmacy shortly before she quit her job.
- 372. Mr. Parikh's evidence is that around 2014, Individual B had a series of personal and/or romantic issues and that she would share details of these issues with him. Mr. Parikh describes having lunch with Individual B, her new boyfriend and her son in December 2016.
- 373. Individual B left her job at the Pharmacy around that time but would continue to visit the Pharmacy occasionally to get medication for her son and father. Individual B continued to attend the Pharmacy as a patient until July 2018.

374. Mr. Parikh recalls Individual B once telling him that when she told her boyfriend she was short for rent her boyfriend responded that he could give her for \$50.00 for oral sex. He denies asking Individual B to perform oral sex on him in exchange for \$50.00. Mr. Parikh denies engaging in sexual intercourse with Individual B in the Pharmacy with or without her consent between 2015 and 2016.
375. Pharmacy employee J.B., who characterized her relationship with Individual B as a very good friendship, gave evidence that she was unaware of anything unusual between Individual B and Mr. Parikh during the course of Individual B's employment at the Pharmacy.
376. Individual B was unable to provide to Dr. Acton a clear timeline of when she was contacted by the RCMP in relation to their investigation against Mr. Parikh and when she was contacted by Individual A. Under cross-examination, Individual A's evidence was that she reached out to Individual B prior to going to a doctor for the first time. Individual A first attended the doctor in the emergency room on December 12, 2019.

(f) Allegation 4

377. Mr. Parikh's evidence is that in 2019 Individual C saw a doctor regarding being overweight and that Mr. Parikh suggested trying medication for weight loss prior to going for surgery. Mr. Parikh provided this medication for free, as he did for the husband of [REDACTED]. Mr. Parikh describes the discussions he had with Individual C regarding her weight as taking place within the context of her being a patient of the Pharmacy. He denies suggesting that Individual C lose weight to look better.
378. Mr. Parikh's evidence is that Individual C would laugh about a couple of the Pharmacy's customers that would look at and make comments about her chest. Mr. Parikh denies having any need to look at Individual C's name tag. Mr. Parikh recalls asking Individual C if she was okay and notes that he tells his staff not to deal with customers that make them uncomfortable.
379. Mr. Parikh's evidence is that a man named [REDACTED] who he described as a "little bit weird" would come into the store and converse with Mr. Parikh in their native language. Mr. Parikh describes [REDACTED] as a customer of the Pharmacy rather than a friend.
380. [REDACTED] evidence is that she did not witness any inappropriate interactions between Mr. Parikh and Individual C, nor was she aware of any allegations made against Mr. Parikh by Individual C. [REDACTED] evidence is that she was not witness to any discussions between Mr. Parikh and Individual C regarding her weight.

(g) Allegation 5

381. Individual D did not attend the hearing to give evidence on any of the allegations contained in Allegation 5. Mr. Parikh denies the allegations.

(h) Allegation 6

382. Mr. Parikh's evidence is that the Pharmacy operated from Monday to Friday from 10:00 a.m. to 6:00 p.m. and Saturday from 10:00 a.m. to 1:00 p.m. Mr. Parikh renovated the Pharmacy to include a small cooking area for him to prepare meals. Mr. Parikh's evidence is that he would eat and drink in the cooking area after the Pharmacy closed and during opening hours, he would drink warm water with lemon and honey.
383. Mr. Parikh denied keeping alcohol in the Pharmacy premises outside of the cooking area or drinking alcohol while the Pharmacy was open to patients. [REDACTED] evidence was that she never saw anyone drinking at the Pharmacy. [REDACTED] evidence was that she did not see Mr. Parikh drink alcohol at the Pharmacy. [REDACTED] shift at the Pharmacy ended at 6:00 p.m. each day. The evidence of [REDACTED] and [REDACTED] is in sharp contrast with the evidence of Individual A and Individual C, who state that Mr. Parikh would drink alcohol at or after 5:00 p.m.

(i) Charge accounts

384. The Pharmacy had a charge account system by which employees could purchase Pharmacy items using their charge account and have it repaid later. Pharmacy employee [REDACTED] gave evidence demonstrating that Individual A would undercharge the Pharmacy for gift cards using the charge account system, e.g., charging the account \$25 for a \$375 gift card. Individual A denied engaging in such a practice. [REDACTED] found that Individual A owed the Pharmacy \$15,047.00.
385. Mr. Parikh's evidence is that on December 2, 2019, his employee [REDACTED] advised him that Individual A and Individual C were drawing too much from their employee charge accounts. [REDACTED] recalls Individual A's charge account balance getting "higher and higher" and that she "had a bad attitude about it". Mr. Parikh's evidence is that he wanted to put off confronting Individual A and Individual C until January.
386. On December 4, 2019, Mr. Parikh hosted a Pharmacy Christmas party. Mr. Parikh describes a negative change in his relationship with Individual A following the Christmas party and that he thought he may have said something inappropriate at the event to upset Individual A.
387. C.T.'s evidence was that Individual A was sitting at Mr. Parikh's end of the table and abruptly started crying and left the Christmas party. Individual A states that she does not remember the Christmas party.
388. In the period after the Christmas party, Mr. Parikh's evidence is that he felt pressured to assist Individual A with her financial issues. Individual A's evidence is that Mr. Parikh paid off a debt to Progressa, although she is unsure of the date and amount of the debt.

3. Reply Submissions of the Complaints Director

(a) Collateral Attack on the Complaints Director's witnesses

389. Mr. Parikh's written argument constitutes a collateral attack on the credibility of Individual A and Individual B. Mr. Parikh employs collateral attacks and red herrings to distract the Hearing Tribunal from his failure to directly challenge Individual A's and Individual B's evidence on cross-examination.
390. It was not the Complaints Director's, or his legal counsel's, responsibility to suggest that Mr. Parikh engage in a line of questioning of Individual A and Individual B. Rather, it is up to Mr. Parikh's legal counsel to weigh and consider the consequences of not proceeding with a line of questioning and decide whether or not to do so.
391. While the rule in *Browne v Dunn* need not be strictly applied to proceedings before the Hearing Tribunal, it reflects an important principle of fairness. Where evidence is left unchallenged or untested any evidence presented after the fact should be given less weight.

(b) Charge accounts

392. Mr. Parikh suggests that the allegations against him have been manufactured by Individual A, Individual B, and Individual C to cover their charge account debts.
393. If the Hearing Tribunal is persuaded by the charge accounts as a motive for the allegations raised against Mr. Parikh, it should weigh Mr. Parikh's evidence that Individual B stole \$1600 from the Pharmacy against Individual B's evidence that Mr. Parikh let her charge \$1600 in Visa gift cards to her pharmacy account to pay a damage deposit for an apartment and gave her another \$1600 to get her dog fixed, which he did not ask her to pay back.
394. It should also weigh Mr. Parikh's evidence that Individual B owed him \$5800 for a dirt bike against the relevant evidence from [REDACTED] and Individual B. [REDACTED] indicated she had no knowledge of the \$5800 charge for a dirt bike that was handwritten onto Individual B's account balance. Individual B's evidence was that she recalled she paid Mr. Parikh back for half of the \$5800 she borrowed for the dirt bike by having him take money off her pay cheques. She also stated she was not aware that her former boyfriend did not repay Mr. Parikh for the remaining amount owing on the dirt bike.
395. Mr. Parikh testified that he wanted to put off confronting Individual A and Individual C about their charge accounts until January 2020. However, Mr. Parikh's evidence is not as straightforward as this statement makes out. After initially testifying he didn't want to say anything about the charge accounts until after Christmas, he later stated that on December 2, 2019, he found both Individual A and Individual C were stealing money, crazily and he told them that because they took more than \$5,000, they could get in trouble, be criminally charged and get jail time. Mr. Parikh testified that Individual A and Individual C were shocked, and this was the point at which all three of Individual A, Individual B and Individual C came together to fabricate the allegations against him.
396. Next, he stated that [REDACTED] advised him of Individual A and Individual C's debts on December 2, 2019, in the new office or injection site at the pharmacy and loudly told him about the "crazy charge" because she wanted Individual A and Individual C to hear her. In this version of events, Mr. Parikh states that he said he would talk to them after Christmas.

397. It is unclear from Mr. Parikh's evidence whether he spoke to Individual A and Individual C in December, or if he waited until January. It is unclear from [REDACTED]'s evidence whether she was present when Mr. Parikh spoke with Individual A and Individual C about their charge accounts. It is also unclear whether Individual A and Individual C's charge accounts were ever over \$5000.

(c) **Credibility of Individual A as a victim of sexual assault**

398. Mr. Parikh suggests that the Hearing Tribunal should accept Dr. Acton's evidence that it would be odd for a victim of a sexual assault to have a normal interaction with an abuser. However, Mr. Acton also clarified that he would not assume that Individual A's use of emojis or smiley faces in a text message meant that she was not sexually abused by him.
399. The Alberta Court of Appeal has cautioned that avoidance behavior towards an abuser is a stereotype that cannot be relied on: [REDACTED] v. ARD, 2017 ABCA 237. Here the Court stated:

We must deal with the issue: is the expectation of avoidant conduct or clear behavioural changes by a sexual assault victim a matter of logic and common sense, or it is just another stereotype, or myth, that cannot be supported either as a matter of logic or as an available inference on this record?

To be clear, reliance on a stereotype to found an assessment of credibility bearing on reasonable doubt is impermissible—it is an error of law.

400. As such, the fact that Individual A continued to communicate with Mr. Parikh should not be used to diminish her credibility. Individual A testified to her normal frequent use of emojis and testified that she did not know why she continued to send Mr. Parikh messages of a personal nature but noted that she was "maybe trying to make it seem like everything's OK when it's not".
401. Individual C testified, in terms of the relationship between Mr. Parikh and Individual A that "it seemed like he owned her, he had control over her. He would make her stay and work. He would leave early Fridays and her and I would work. They did a lot of texting. It was not like a boss."
402. With respect to Individual A and Individual C testifying that Mr. Parikh was circumcised, the Complaints Director stated that Mr. Parikh only addressed the issue of his circumcision in response to a question from the Hearing Tribunal. Had circumcision been a key issue for credibility, one would have expected Mr. Parikh to have raised the issue in his own direct evidence.

VI. FINDINGS

1. The Rule in *Browne v. Dunn*

403. The Complaints Director has raised the rule in *Browne v. Dunn* for the Hearing Tribunal's consideration. As described by the Complaints Director, the rule in *Browne v. Dunn* requires a party to put a point of issue to a witness under cross-examination if the party later intends to bring evidence to present a contradictory version of events. While the Hearing Tribunal acknowledges that it is not bound by the strict rules of evidence applicable to judicial proceedings in accordance with section 79(5) of the HPA, the Hearing Tribunal accepts that the rule in *Browne v. Dunn* is a rule of fairness and should be considered and applied to the extent necessary in professional discipline proceedings.
404. The rule in *Browne v. Dunn* allows a witness the opportunity to address a contradictory version of events and provide their response to the different version of events. The rule also assists in providing the decision maker with a fuller picture of the facts instead of relying on a second version of events and wondering what another witness might have said had that contradictory version been put to them. The overarching goal of the rule in *Browne v. Dunn* is to avoid ambush and ensure the Hearing Tribunal can fairly evaluate the evidence.
405. The Complaints Director has pointed out that Mr. Parikh did not, in accordance with the rule in *Browne v. Dunn*, put his opposing version of events to Individual A (for example, that he lost his balance and fell onto the fridge and used his hand to stabilize himself vs. using his hand to block Individual A or that it was Individual A who came onto him and was trying to get him to touch her).
406. As a consequence, the Complaints Director submits that the evidence of Individual A and Individual B, other than Mr. Parikh's bare denial, remains unchallenged. The Complaints Director submits that when credibility and the failure to apply *Browne v. Dunn* are considered together, Mr. Parikh's evidence should not be accepted as credible. Instead, the Hearing Tribunal should place great emphasis on the fact that none of Mr. Parikh's version of events were put to Individuals A and B.
407. In response to the Complaints Director's assertions, Mr. Parikh points out that the Complaints Director did not object at any point during the hearing on the basis of *Browne v. Dunn*. Mr. Parikh points out that the most common remedy for a breach of the rule in *Browne v. Dunn* is to permit a witness to be recalled to address the issue that was not put to the witness on cross-examination. The Hearing Tribunal agrees that the Complaints Director's failure to object during the hearing at the time of the rule being breached means that the hearing process is now deprived of the opportunity to recall Individual A or Individual B to remedy the unfairness created by the breach.
408. The Hearing Tribunal is not prepared to accede to the Complaints Director's assertion that the consequence of the failure to apply the rule in *Browne v. Dunn* means that Individual A and Individual B's evidence is now unchallenged. The failure to apply the rule does not erase Mr. Parikh's contrary evidence. Rather, the issue becomes how much weight should

be applied to the contrary version of events given the breach of the rule. Further, the Hearing Tribunal accepts that the rule should not be applied rigidly. As noted at paragraph 2 in the case of ■ v. *Scheideman*, 2001 ABCA 94, which was provided by Mr. Parikh:

To begin with, the rule in *Browne v. Dunn* does not stand for the proposition that a trial judge must accept as true the evidence of a witness, merely because the witness was not cross-examined on a particular point. Where a witness's statement is inconsistent with other evidence adduced at trial, the trial judge is free to accept the other evidence and find that the witness giving the implausible evidence is not credible. A judge is also free to give less weight to implausible evidence. To require a judge to give implausible evidence the same weight given to plausible evidence proffered by credible witnesses, because a technical requirement for cross-examination had not been satisfied, would unjustifiably fetter the judge's ability to weigh evidence.

409. Further, as noted in *Goruk v. Greater Barrie Chamber of Commerce*, 2021 ONSC 4046 at paragraph 12:

Fairness demands different things in different circumstances. The application of the rule is, in the result, entirely in the discretion of the trial judge. The Supreme Court has directed that the rule not be applied rigidly. See *Lyttle*, as above. In this vein, a trial judge has a wide discretion to determine an appropriate remedy in the event of a breach of the rule.

410. In the result, the Hearing Tribunal is not prepared to automatically discount the evidence of Mr. Parikh as a result of the failure to comply with the rule in *Browne v. Dunn*. This would amount to a rigid application of the rule. Rather, it will consider and weigh all the evidence before it.

2. Allegation 1

411. The evidence is clear that Individual A was both an employee of the Pharmacy and a patient. Beyond these basic facts, however, this is a very challenging allegation to assess. The evidence regarding the conduct underlying the allegation engages a classic he-said, she-said credibility contest. Individual A has testified that the sexual conduct occurred while Mr. Parikh denies all of the conduct alleged against him.

(a) Individual A's account

412. Individual A describes the conduct as commencing in October 2018. She testified that following Mr. Parikh's return from a trip, she and Mr. Parikh were in the kitchen after the Pharmacy closed. Individual A was at the sink washing the dishes while Mr. Parikh sat on a chair. Individual A asked how his vacation had been and Mr. Parikh said "I spent every night masturbating to the thought of you". When Individual A attempted to leave the kitchen, Mr. Parikh got up from the chair and blocked Individual A by putting his hand on the fridge and tried to kiss her. On cross-examination, Individual A confirmed that Mr.

Parikh asked her for a hug because he was stressed and she backed away from him, then Mr. Parikh pinned her to the fridge, tried to kiss Individual A and told her that he masturbated to the thought of her.

413. Mr. Parikh then told Individual A that if she did not have sex with him, he would rape her. Individual A felt that “shutting off my brain and just going along with it would be a lot better than him forcibly take (sic) me”. She then recalls Mr. Parikh telling her to go to the storage room, which is a room in the back of the Pharmacy to the left of the kitchen. Mr. Parikh set some sweaters down on the floor of the storage room and made Individual A lie down; he took off her pants, got on top of Individual A and had sexual intercourse with her. After, Mr. Parikh got up and went to the bathroom and so did Individual A before she left the Pharmacy. Individual A stated that she would have gone home and likely “showered and tried to ignore everything that had just happened”.
414. Individual A was unable to recall the date the first instance of sexual intercourse happened, but it would have been about a year before she made her complaint to the ACP. Mr. Parikh continued to have sexual intercourse with Individual A “two or three times a week for that entire year”. It stopped around the time Individual A disclosed the conduct to her family physician on December 17, 2019.
415. The sexual intercourse always occurred in storage room and when no one else was in the Pharmacy. Mr. Parikh never wore a condom. On cross-examination, Individual A explained that she had never seen Mr. Parikh’s penis because it was always dark when they had sex. When asked how she could discern that Mr. Parikh was circumcised, which she told Mr. Acton during the investigation, or why she suggested in her text message to Mr. Parikh that he had a small penis, Individual A indicated this was based on having felt Mr. Parikh’s penis.
416. Individual A described a “telltale sign” that Mr. Parikh intended on having sex with her is that he would go to the bathroom and come out “reeking of Axe” body spray. When this happened, Individual A “would know that it was going to happen. I would have to stay and do that.”
417. Individual A never initiated sex with Mr. Parikh. She would try to say no to Mr. Parikh, make an excuse or call her husband when the Pharmacy closed but when she did so, Mr. Parikh would be “mean and make my life awful” the following day. Individual A felt that she either had to do what Mr. Parikh said or “be treated like absolute garbage”; Mr. Parikh would call Individual A stupid or dumb in front of her co-workers, be “very nitpicky”, and make fun of her in front of customers. When Mr. Parikh engaged in this behavior, Individual A understood that she was being punished for not having sex with Mr. Parikh.

(b) Mr. Parikh’s account

418. Mr. Parikh testified that one evening in October, he was watching cooking recipes on YouTube around 6:15 when Individual A came to him and said she was doing some horse inventory. Mr. Parikh hadn’t realized she was still in the Pharmacy at that point but said it was fine to stay and do the horse inventory. Mr. Parikh testified that Individual A then

asked him if he was watching porn. He said no and stated that Individual A replied by stating that he didn't need to watch porn anymore because she was here for him. Mr. Parikh didn't say anything in response to that suggestion and just laughed, thinking that she was making "some kind of fun or something". He then stated that Individual A should go home and cook supper. Individual A stated that her husband was coming to the Pharmacy and she went back to doing inventory.

419. On cross-examination, Mr. Parikh denied telling Individual A that he had masturbated to the thought of her as it was "totally the opposite". Individual A was the one who said I am here now, and you can think of me and masturbate. Mr. Parikh stated that he laughed at Individual A and said that he was fine with his porn. It is unclear why Mr. Parikh stated that he was fine with his porn if he had not been watching porn in the first place.
420. A while later, Mr. Parikh testified that he had been drinking alcohol, more than he was supposed to have, and Individual A came back into the kitchen and said something weird to him. He stated that she put his hand on her chest and stated, "you can have it". Mr. Parikh stated he could not stand properly at that time because of his drinking so he lost his balance and put his hand on the fridge to catch his fall. Individual A laughed at him. Mr. Parikh testified that Individual A was encouraging him to touch her. In reply, he stated that he was waiting for Individual A's husband, and this was not a good idea. Mr. Parikh denied using his body to block Individual A against the fridge in the Pharmacy kitchen. He stated that he lost his balance and put his hand on the fridge to get support. This version of events was not put to Individual A on cross-examination.
421. Mr. Parikh denied threatening to rape Individual A if she did not have sexual intercourse with him and denied having sexual intercourse in the Pharmacy on multiple occasions between October 2018 and November 2019 without her consent. However, the Hearing Tribunal notes that Mr. Parikh did not deny having a sexual relationship in his evidence in chief. The denial only came when the question was specifically put to him on cross-examination and by the Hearing Tribunal.
- Mr. Parikh further testified that Individual A was very unhygienic and had lots of animal hair on her clothes. He stated that Individual A had a smell, and it was difficult to stand near her and that is why he always used deodorant. He thought that is why she had mentioned his use of deodorant.
422. Mr. Parikh also noted that on certain occasions where he had stayed at the Pharmacy to drink, he would place some jackets or sweaters on the floor and sleep on them for 3-4 hours before driving. He surmised that this is why Individual A spoke about sweaters being placed on the floor.

(c) Text messages

423. In the view of the Hearing Tribunal, the text messages exchanged between Individual A and Mr. Parikh in December 2019 and January 2020 provide important evidence in assessing this allegation. Accordingly, the text messages will be reviewed in some detail.

424. On December 17, 2019, Individual A texted Mr. Parikh to tell him that she was taking a leave of absence. When Mr. Parikh asks her if she is OK, she replies as follows:
425. “Everything is not okay. You can’t do what you did and then turn mean when you don’t get what you want. Your biopolaresque actions have driven me to the brink of a nervous breakdown. I have told [my husband]. Everything. I have a note from [my doctor], who also recommended I take this to the college.”
426. Mr. Parikh’s response to this text is as follows:
- “[Individual A], I can understand your frustration but fight is no worth for me and you; I just talked to my lawyer about my pub business as you know that he said it take so much time continue this case; Please don’t fight what ever you like tell me for better for everyone.”
427. In the view of the Hearing Tribunal, Mr. Parikh’s response to this text is somewhat odd if, as he has testified, nothing at all happened between him and Individual A. Individual A has stated to him that he can’t do what he did and then turn mean when he doesn’t get what he wants. However, Mr. Parikh does not query at all what he is alleged to have done. Individual A then advises Mr. Parikh that she has told her husband. “Everything”. Again, Mr. Parikh does not ask what she told her husband or why she had to tell her husband anything. Indeed, he does not respond to this comment at all. He is then told that Individual A’s doctor has recommended that she “take this to the College”. Mr. Parikh does not ask at all what Individual A means by this or what conduct she would be advancing to the college.
428. In his evidence, Mr. Parikh stated that he thought he had done something at the Christmas party to upset Individual A. However, again, he does not ask what he has done. Further, Individual A’s husband was at the Christmas party so he presumably would have been aware of the events that unfolded at the Christmas party and there would therefore be no need to tell him “everything”. Similarly, if Individual A was suggesting that whatever he had done at the Christmas party was something that she had to go see a doctor about and then have it suggested that she report that conduct to the college, surely Mr. Parikh would be inquiring as to what he had done.
429. However, at no point does Mr. Parikh ask what he has done to make Individual A so upset that she has had to see a doctor and is contemplating reporting his conduct to the College. Rather, he simply indicates that he understands Individual A’s frustration, asks her not to fight and asks how he can make things better. Implicit in his response seems to be an understanding that he has done something to upset Individual A and he is now seeking to make reparations. In asking Individual A to “please don’t fight”, he seems to be recognizing that there may be something to fight about.
430. Individual A then replies to his text by stating “I don’t want you to do this to anyone else. Ever.” Again, Mr. Parikh does not inquire at all about what he should not do to anyone else. Ever. Plainly, Individual A is referring to something relatively serious if she is emphasizing that she does not want the conduct to happen to anyone else ever.

431. In response, Mr. Parikh simply advises that Individual A is the best person for the Pharmacy. He implores Individual A to “please let me know how to make everything normal; you know me, I always do my best to keep everyone happy;...I am already in trouble you know that.” Mr. Parikh texts Individual A again the next day again imploring her to advise him “how to make it work”. He offers to clear her charge account in the amount of \$9,000, to pay her \$6,000 and once he has sorted his pub business to pay down her credit card debt by \$500 per month. He goes on to state “Please let me know anything I can do to make you happy, as you know that I never tried to wrong with anyone.”
432. Mr. Parikh testified that he was offering this money to Individual A to retain her as she was a good employee. However, in the view of the Hearing Tribunal, this appears to be a very generous retention offer for someone who does not yet appear to have even inquired what led Individual A to consider leaving. Further, Mr. Parikh states in a later text message on December 18: “If you want to go for ROE, then what you want me to do to make happy? Please let me know.” Similarly, Mr. Parikh states in a later text “If you don’t want to come [to work] then tell me with ROE what you want me to more to make both life easy...”.
433. If Individual A was opting for the ROE, then this would mean that she had decided to leave her employment. If Mr. Parikh was offering the money to retain Individual A as an employee, then it doesn’t follow that he would still be inquiring what he could do to make her happy if she was opting to leave employment.
434. In response, Individual A texts as follows:
435. “It’s not about the money at all. You have to accept the fact that what you did was wrong and that it cannot happen again. Will you approach [Individual B] in that way and when she turns you down then call her slow and incompetent as well, and degrade her until she is in tears? Where does it stop? The fact that this has happened before show [sic] that this is a trend and I won’t be the last. You are trying to pay me off with meager amounts that you will forget about easily...”
436. Keeping in mind that Mr. Parikh’s position is that nothing happened between him and Individual A, it is very unclear to the Hearing Tribunal why Mr. Parikh is not asking what he did and what cannot happen again or what is a trend. Mr. Parikh does not raise any of these questions. Instead, his responses seem to imply that he knows what Individual A is talking about, if for no other reason, then he doesn’t ask what she is referring to when she is making these plainly serious allegations. He simply reinforces that he needs her to stay on at the Pharmacy.
437. Individual A goes on: “I know I’m best for the business, which is why you should have kept your hands to yourself. What is “just fun” for you, is now a lifetime of anguish for me. Now I have to suffer and not work and be tormented by awful thoughts because of a decision you made. And you offer me \$10 grand to pretend like everything is okay and just go back to normal. After you didn’t get your way you called me slow and stupid and ignored me in front of customers and belittled me and made me feel no more than a useless person. And the sad thing is you can’t admit you did anything wrong. “I didn’t mean to hurt anyone” is not admitting fault. I shouldn’t have to suffer due to a lack of consciousness [sic] and

morality on your part. Like I said before, [my doctor] wants me to report this to the college...this can't continue on with other people."

438. Here, Individual A specifically accuses Mr. Parikh of not "keeping his hands to himself". This plainly suggests that she was subject to sexual contact from him. But again, Mr. Parikh does not inquire what Individual A is referring to, why she is suffering or what "can't continue on" with other people. Similarly, he does not ask why Individual A is suffering and tormented by awful thoughts. Individual A is using strong, upset and accusatory language. However, Mr. Parikh does not engage with these aspects of the text message at all.
439. Rather, he replies by asking how to make the situation better for everyone and asking Individual A to make a fresh start and indicating that he is not a bad person. This response makes no sense if, as alleged by Mr. Parikh, there was never any sexual contact between him and Individual A. If that was the case, it is much more likely that Mr. Parikh would be reacting strongly to these allegations, asking what he did and when or how he had not "kept his hands to himself". Rather, his response seems to simply accept what Individual A is saying did occur and he is focused instead on moving past it and making things better.
440. In response to this text, Individual A replies: "A new start?? You stole ME. [...] I have worked there for 15 years and I no longer have an identity because you couldn't keep your hands or thoughts to yourself".
441. Again, there is no inquiry from Mr. Parikh as to what is meant by him not keeping his hands to himself. Rather he replies that "once you came back after Christmas, we both agree to make the pharmacy situation normal". He then also raises the concern about Individual A charging gift cards to her account and her charge account now being at \$16,000.
442. Further, at this point, it is implausible that Individual A would be referring to a "slight" at the Christmas party. It seems very unlikely that her identity would be stolen as a result of a slight at a Christmas party. Individual A is also clearly referring at this point to Mr. Parikh not keeping his hands or thoughts to himself. This is plainly something different and much more serious than a Christmas party slight.
443. The next text from Individual A states: "Look dude. Nobody is going to take your side. Everyone knows EVERYTHING that went on. You can tell them what you want – at this point I don't care. And take me to collections for all I care. I was going to pay and I told both you and [REDACTED] that but since you seem hung up on this, feel free to do what you will".
444. The text continues: "I just want to be done with your predatory gaslighting self. I'm not the same scared weak person I was when you first cornered me in the pharmacy. I am stronger and better because of this, as sad as that is. You are a disgusting person and blaming it on being a stressed out alcoholic isn't going to earn you any points, no matter how many people you told your story to. I can never forgive you for what you did to me. You tried to ruin my family and I hope you ruined yours. For dog's [sic] sake, I hope you tell your wife what a dirty, conniving skanky human you are. Hundreds of prostitutes? For fucks sake you are lucky you aren't carrying anything (and believe me, I got tested). Strippers that you pay all

the time? Nasty. Your poor wife. She probably knows nothing. I hope one day you have the balls to tell her what a terrible human you are. Oh. And. 🙄 🙄 🙄 🙄 🙄 🙄."

445. There is little doubt that Individual A is referring here to a sexual relationship with Mr. Parikh. Why else would she be referring to getting tested or Mr. Parikh telling his wife? Again, however, despite the very serious nature of what Individual A is referring to in her text, Mr. Parikh's response is "I understand your frustration. I'll make your ROE". There is no "what are you talking about? What can you not forgive me for? Why are you getting tested? What should I tell my wife about?". These are all questions that one might expect from someone who, as he alleges, never had a sexual encounter with Individual A.
446. Further, when asked by the Hearing Tribunal what he was referring to when he stated, "I can understand your frustration", Mr. Parikh stated that he understood Individual A's frustration to be about her finances. However, the Hearing Tribunal does not understand how Mr. Parikh could have plausibly formed that view as Individual A does not refer at all to her financial situation in the preceding text.
447. Similarly, Mr. Parikh was referred to the part in that text message that stated, "I can never forgive you for what you did to me". In response, Mr. Parikh again testified that he thought that she was frustrated about her financial situation. This simply makes no sense. Individual A is plainly not referring to her financial situation at all in the preceding text and it is not clear how Mr. Parikh would connect the statement "I can never forgive you for what you did to me" to Individual A expressing frustration about her financial situation. The Hearing Tribunal does not find Mr. Parikh explanations in this regard to be credible.
448. In response to a text from Mr. Parikh where he describes how stressed-out he is, Individual A replies on December 19: "That doesn't give you an excuse to behave the way you did though. You took advantage of me in a vulnerable state and now I'm the one paying for it." Rather than ask how he took advantage of Individual A, Mr. Parikh responds "[Individual A], tell me how I can make it for you? Best for us, come to work and I'll take care of all your debt".
449. Individual A then responds with "Do you admit that what you did was wrong?". In response Mr. Parikh appears to plead with Individual A as follows: "[Individual A], please come back to work, it's win win situation for both, you are best person for pharmacy and I'll take care of your debt; I'll make you financial debt free in year in few week everything becomes normal; if you don't want to come back then tell me what can do for you? Fight is not good option; Please tell me...what you want me to do?"
450. Again, rather than pleading with Individual A about how to make things right, if there had been no sexual encounters at all with Individual A, as Mr. Parikh alleges, one would expect him to be asking how he could admit to doing something wrong when he doesn't know what he did. Instead, he appears to implicitly acknowledge a wrong by asking how to make it right and by attempting to dissuade Individual A from fighting about it.

451. Individual A then replies with “I want you to acknowledge what you did was wrong”. Again rather than asking what he did, Mr. Parikh states that “we should move forward positively, [Individual A]. Tell me know can we make this situation better?”. Individual A then restates: “I want you to acknowledge what you did was wrong”.
452. This time, Mr. Parikh states “I did nothing wrong; nothing was doing forcefully. I was also mentally upset and drunk all the time; I wasn’t with me. I totally understand it’s stressful situation on both side; please come to work, I guarantee everything will be normal in a week...”
453. At this point, Mr. Parikh appears to acknowledge that something happened but that it was not done forcefully. He also offers an excuse in that he was mentally upset and drunk all the time and “wasn’t with me”. In the view of the Hearing Tribunal, there would be no need to Mr. Parikh to offer excuses for his behavior if nothing had happened, as he alleged.
454. When asked by the Hearing Tribunal about the reference in the text to nothing being done forcefully, Mr. Parikh explained that Individual A had come close to him and tried to lure him, and he hadn’t forced her to do anything. This is what he meant by having done nothing forcefully. However, this explanation does not make sense to the Hearing Tribunal. First, if Individual A was trying to lure him, then it goes without saying that he would not have been doing anything forcefully. She would have been the one initiating the contact. Second, the comment about “nothing was doing forcefully” was made just prior to Mr. Parikh offering excuses for his behavior. Accordingly, the tenor of the full text message appears to the Hearing Tribunal to be “I did nothing wrong. It was done consensually and even if it wasn’t I am to be excused for my behavior because I was mentally upset and drunk all the time.”
455. When all of the above is considered, the Hearing Tribunal must ask itself whether the text messages are consistent with Mr. Parikh’s narrative that nothing at all sexual occurred between him and Individual A.
456. As noted above, Mr. Parikh’s responses are simply not consistent with his outright denial of any sexual activity. Rather, the more plausible narrative is that Mr. Parikh knew just what Individual A was referring to (i.e., their sexual relationship) and this is why none of his text responses expressed any degree of shock or surprise or even questioned Individual A as to what she was alleging he had done.
457. Instead, Mr. Parikh appears to engage in constant pleading with Individual A to tell him what he can do to make things right and offers to make her debt-free by paying off her account with the Pharmacy, by giving her a cheque for \$6,000 and contributing \$500 per month in credit card debt.
458. The Hearing Tribunal finds it very unlikely that Mr. Parikh would go to this extent if he were simply trying to make amends for doing something that upset Individual A at the Christmas party as he contends (even though he did not, in fact, know what he did to upset Individual A at the Christmas party), or that he was offering these sums of money simply to keep Individual A as an employee. As noted earlier, Mr. Parikh asks Individual A what he

can do to keep her happy even in the event that she wants the ROE. To this extent, it appears to the Hearing Tribunal that Mr. Parikh's need to make things right extended beyond a mere desire to keep Individual A as an employee.

459. It is clear that he is also trying to actively dissuade Individual A from "fighting", i.e., pursuing matters further. In the overall context of these exchanges, the Hearing Tribunal is prepared to accept Individual A's characterization that Mr. Parikh was attempting to "buy her off". While there is evidence before the Hearing Tribunal that Mr. Parikh was a generous employer, the Hearing Tribunal finds that the offers of money made in this context were attempts to placate Individual A so that she would not pursue matter of their sexual relationship further. It appears that Mr. Parikh did not want any further trouble. As he put it in one of his texts "my life is already fucked up hard".
460. In the result, the Hearing Tribunal finds that the text messages to be inconsistent with Mr. Parikh's version of events. In other words, the text messages severely damage the credibility of Mr. Parikh's outright denial of a sexual relationship with Individual A.
461. With respect to the impact on our assessment of Individual A's credibility, Mr. Parikh's argument is that Individual A conspired with Individual B and invented the allegation of the sexual misconduct. Therefore, we can also use the text messages to rebut the allegation that Individual A's evidence was recently fabricated. We do not use these prior consistent statements by the witness as proof of the facts or to support the witness's overall reliability. Instead, we use it for a limited purpose to find that it rebuts the allegation of recent fabrication.

(d) Charge accounts and Breyer horses

462. Mr. Parikh contends that the fact that Individual A owed the Pharmacy approximately \$16,000 on her charge account is the reason that she filed her complaint with the ACP. Presumably, the argument is that Individual A fabricated the allegations of sexual assault and filed her complaint with the ACP in order to leverage Mr. Parikh into forgiving her debt or withdrawing his civil claim for recovery of the charge account. In other words, Individual A had a motive to make up her allegations against Mr. Parikh.
463. However, the Hearing Tribunal does not see how this argument bears out in the evidence. While Individual A acknowledged that she was indebted to the Pharmacy, it appears to the Hearing Tribunal that Individual A raised her concerns about sexual assault and the possibility of complaining to the College prior to her being made aware that Mr. Parikh or the Pharmacy might pursue her to collect the debt.
464. C.T.'s evidence was that she warned Mr. Parikh on December 2, 2019, that the balances on Individual A and Individual C's charge account were "getting crazy". ■■■ testified that Mr. Parikh told ■■■ that he would talk to Individual A and Individual C after Christmas.
465. Similarly, Mr. Parikh testified that ■■■ told him about Individual A and Individual C "stealing money, crazily" on December 2, 2019. He then stated "so I said three girls, you took more than \$5,000. You know, you may get trouble. You know, because if you read

about the criminal charges, if you get more than 5,000, it is a big crime. Like you can get jail, you can get this one and all stuff. So they were shocked.” It is not clear however when Mr. Parikh made this statement to the “three girls”. Further, it is not clear whether he repeated the statement to each girl individually at different times or on different dates. It is unlikely that he would have made the statement to all three of Individual A, Individual B and Individual C together given that Individual B was not working at the Pharmacy at that time.

466. In any event, Mr. Parikh clarified later in his evidence that as they were having a Christmas party and Christmas was coming up, he would deal with the charge account issues after Christmas. On this basis, it appears unlikely that Mr. Parikh raised the prospect of criminal charges or collection issues with Individual A prior to January 2020.
467. While Mr. Parikh argues that it is entirely plausible that Individual A would have known in December 2019 that she would soon have to confront her debt, the evidence suggests that Individual A was not aware until January 2020 that she might be in jeopardy with respect to her debts. Further, the civil claim filed by Mr. Parikh against Individual A for recovery of the charge account was filed after December 2019.
468. Individual A first texted Mr. Parikh about her need to take a leave of absence and the corresponding impact that the sexual relationship had on her on December 17, 2019. The bulk of the text discussions, as described above, took place over December 17, 18 and 19, 2019. It was only after a number of exchanges where Individual A raised concerns about what Mr. Parikh had done to her that Mr. Parikh raised the issue of Individual A’s charge account being at \$16,000 and Individual A trying to “charge Breyer stuffs” when Mr. Parikh was not in the pharmacy.
469. In this context, it could equally appear that Mr. Parikh was raising the issue of the charge accounts in order to leverage Individual A to stay silent and not bring her concerns to the Alberta College of Pharmacy (ACP). The notion that Individual A was blackmailing Mr. Parikh is difficult for the Hearing Tribunal to reconcile when it is clear from the text messages that Mr. Parikh was the one who was clearly and consistently offering to pay money to Individual A. At no time did she ask for money from Mr. Parikh. Indeed, she stated in her text messages that “it was not about the money”.
470. Further, as noted by the Complaints Director, while [REDACTED] raised concerns about the charge accounts on December 2, 2019, Mr. Parikh did not direct her to investigate the charge accounts until April 2020, a point at which Individual A’s complaint to the ACP had already been made and when there may have been motivation to leverage Individual A into withdrawing her ACP complaint.
471. Further, it does not make sense to the Hearing Tribunal that Individual A would have fabricated the allegations and brought them to the ACP’s attention to leverage relief from her debt when Mr. Parikh had already offered to clear off her debt in their December text messages. If clearing her debt was her end game, then Individual A could have simply accepted Mr. Parikh’s offer to make her debt-free rather than become involved in the ACP complaint process and proceedings. Further, in one of the December text messages,

Individual A states “And take me to collections for all I care.” In other words, the possibility of being called to account for her unpaid charge account is not overly significant to Individual A in the circumstances. That being the case, why would she fabricate an ACP complaint in an effort to obtain debt relief from Mr. Parikh?

472. For the reasons set out above, the Hearing Tribunal does not accept that Individual A had an ulterior motive in filing her complaint with the ACP.
473. It has also been suggested that the Hearing Tribunal ought to find Individual A less credible because she was engaging in fraudulent activity by undercharging gift cards to her charge account. Individual A’s evidence was that she did not think she ever entered amounts for a gift card to her charge account smaller than the actual value loaded onto the gift card. The evidence of [REDACTED] also demonstrates that Individual A was charging significant amounts to her charge account in a manner that was detrimental to the Pharmacy. However, Individual A was candid in admitting to accruing a large debt on her charge account and not paying close attention to the amounts she was charging to the account. She admitted to blindly charging things to her account to get back at Mr. Parikh.
474. While the Hearing Tribunal does not condone “blindly charging things to her account”, nor does the Hearing Tribunal find that this factor negatively impacts Individual A’s credibility in terms of the sexual assault allegations. Rather, Individual A was frank in admitting her actions in this regard even though they could cast her in a poor light. Further, the Hearing Tribunal accepts that Individual A was angry with Mr. Parikh and may well have acted in this matter to “get back at him”.
475. Mr. Parikh suggests that Individual A is not credible because she denied being under financial strain. Mr. Parikh indicates that the fact that Individual A was undercharging the gift cards on her account is evidence of the financial strain she was under. However, the undercharging of the cards may also be evidence of the fact that, as Individual A testified, she was angry at Mr. Parikh and wanted to get back at him.
476. [REDACTED] gave evidence that her April 2020 inventory of the Breyer model horse stock found that thousands of dollars of stock had gone missing and that only Individual A could account for the missing stock. This caused [REDACTED] to think that Individual A might not be a “completely honest person”. Similarly, Mr. Parikh gave evidence that in early-February 2020, he saw live security footage of Individual A removing model horses from the Pharmacy and advised [REDACTED] to stop Individual A from doing so.
477. With respect to the removal of the Breyer stock from the Pharmacy, the evidence was clear that Individual A returned the Breyer stock without incident. Further, Individual A testified and [REDACTED] acknowledged that Individual A and Mr. Parikh were in negotiations about Individual A purchasing the order at that time. As such, it is unclear whether Individual A understood that she had permission to remove the stock. Similarly, there was no evidence of any investigation to determine whether or not Individual A did actually remove or steal the Breyer stock as alleged by [REDACTED] as a result of her April 2020 inventory count.

478. In the absence of any concrete findings of theft or fraud by Individual A, the Hearing Tribunal is not prepared to find that Individual A is not a credible witness simply on the basis of what occurred with the charge account or the Breyer horses.

(e) Stereotypes associated with victims of sexual assault

479. Mr. Parikh asserts that Individual A maintaining a friendship with Mr. Parikh and continuing to exchange text messages with him during the period of the alleged sexual abuse is evidence of the fact that the allegations of sexual abuse are not credible. Mr. Parikh urges the Hearing Tribunal to accept Mr. Acton's evidence that it would be odd for a victim of a sexual assault to have a normal interaction with an abuser. However, as noted by the Complaints Director, Mr. Acton later clarified that he would not assume that Individual A's use of emojis or smiley faces in a text message or that her giving of a Christmas gift to Mr. Parikh meant that she was not being sexually abused by Mr. Parikh. In other words, "normal interactions" should not automatically be assumed to be evidence that sexual abuse is not occurring.
480. Further, as noted by the Alberta Court of Appeal in ■ v. *ARD*, 2017 ABCA 237 at paragraph 39, the lack of avoidant behavior can tell the trier of fact nothing about a sexual assault allegation. The Court confirmed at paragraph 8 that the expectation that a sexual assault victim will engage in avoidant behavior is a stereotype or myth attached to victims of sexual assault. The Hearing Tribunal accepts that there is no prescribed manner in which a victim of sexual assault is expected to act and in particular there is no basis for concluding that a victim of sexual assault will predictably avoid their abuser.
481. In this particular case, it would have been very difficult for Individual A to completely avoid Mr. Parikh in any event given the ongoing employment relationship on which Individual A depended to provide for herself and her family. Individual A testified that she didn't know why she continued to send Mr. Parikh messages of a personal nature but that "maybe she was trying to make it seem like everything's okay when it's not.". The Hearing Tribunal accepts that in order for Individual A to continue to work at the Pharmacy that she may have felt a sincere need to "normalize" her interactions with Mr. Parikh. The Hearing Tribunal also takes note here of the fact of the significant power imbalance between Mr. Parikh and Individual A. He was both her employer and her pharmacist. She was dependent on him for her livelihood and for pharmacy services for both her and her family. In these circumstances, it is certainly understandable why Individual A would try to normalize things and act as if the abuse was not occurring.
482. In the view of the Hearing Tribunal, the lack of avoidant behavior on the part of Individual A does not diminish the credibility of her allegations of sexual assault.
483. Further, the Hearing Tribunal does not view the delay in disclosure or the length of time that the abuse is alleged to have occurred as diminishing Individual A's credibility. As noted above, the significant power imbalance between Individual A and Mr. Parikh may well have meant that Individual A felt that she had to go along with things in order to keep her job and pharmacy care. Further, as noted in the *College of Physicians and Surgeons of Ontario v. Dr. X*, 2021 ONPTSD 47:

[85] Further, in cases of sexual assault, decision-makers must avoid basing findings of credibility on myths and stereotypes about how victims of such assaults behave. As the Supreme Court stated in [REDACTED] v. D.D., [2000 SCC 43](#) at p. 277, for example,

A trial judge should recognize and so instruct a jury that there is no inviolable rule on how people who are the victims of trauma like a sexual assault will behave. Some will make an immediate complaint, some will delay in disclosing the abuse, while some will never disclose the abuse. Reasons for delay are many and at least include embarrassment, fear, guilt, or a lack of understanding and knowledge. In assessing the credibility of a complainant, the timing of the complaint is simply one circumstance to consider in the factual mosaic of a particular case. A delay in disclosure, standing alone, will never give rise to an adverse inference against the credibility of the complainant.

[86] It is a mistake, therefore, to assume that a victim of sexual assault will complain without delay, or that she or he will avoid the alleged perpetrator after the assault (see [REDACTED] v. A. [REDACTED] D., [2017 ABCA 237](#) at paras. 62-66). The corrosive impact of these assumptions on the adjudicative process is that they can influence the decision-makers' search for truth. Rather than basing findings on the evidence before them, informed by an appropriate understanding of human behaviour, the reliance on impermissible myths and stereotypes leads decision-makers to come to conclusions based on assumptions which are not grounded in the evidence.

484. In any event, Individual A did ultimately disclose what had happened to her family doctor and later the RCMP. While it took a year for Individual A to disclose what was happening to her, the delay in disclosure alone does not impact Individual A's overall credibility.

(f) Individual A's memory

485. Individual A testified that her memory from the time that the sexual assaults were occurring is foggy as she has blocked out a lot of that time. As such, she cannot recall exact moments and how things occurred. The Hearing Tribunal accepts that given the passage of time between the events in question and the dates of the hearing that Individual A may well not be able to recall the events with precision.
486. However, her accounts of the events in question have largely been consistent as between her descriptions of events as recorded in her notebook and provided to Mr. Acton and the Hearing Tribunal. One inconsistency in her evidence was identified by Mr. Parikh.
487. Before the Hearing Tribunal, Individual A testified that she and Mr. Parikh were in the kitchen after the Pharmacy closed. Individual A indicated that she made conversation with Mr. Parikh and asked how his vacation had been and Mr. Parikh said "I spent every night masturbating to the thought of you". When Individual A attempted to leave the kitchen, Mr. Parikh got up from the chair and blocked Individual A by putting his hand on the fridge and tried to kiss her.

488. Individual A then testified that Mr. Parikh told her that if she did not have sex with him, he would rape her. Individual A felt that “shutting off my brain and just going along with it would be a lot better than forcibly take (sic) me”. She then recalls Mr. Parikh telling her to go to the storage room, which is a room in the back of the Pharmacy to the left of the kitchen. Mr. Parikh set some sweaters down on the floor of the storage room and made Individual A lay down; he took off her pants, got on top of Individual A and had sexual intercourse with her.
489. On cross-examination, the notes Individual A took on February 19, 2020 at Exhibit 1, Tab H52 Appendix F were put to her. There, Individual A described this conduct as occurring over two events:
490. One evening after work when Individual A was tidying the kitchen, Mr. Parikh asked for a hug because he was stressed, she backed away and he pinned her to the fridge and tried to kiss her, saying he masturbates to the thought of her; and
491. On a subsequent evening after work, Mr. Parikh told her he would rape her if she did not submit and if she told anyone he would deny it and be believed.
492. When this was put to her, Individual A indicated that the notes at Appendix F are the most accurate as they were made closer to the events in question.
493. In the view of the Hearing Tribunal, it is not particularly material whether the events as described by Individual A occurred over one night or two. It is not surprising that given the passage of time, the nature of the events in question and the length of time over which the events occurred that Individual A might mix up some of the details in question. The Hearing Tribunal does not view this minor inconsistency as undermining the credibility of Individual A.
494. Mr. Parikh alleges that Individual A’s account of the sexual abuse should be viewed as less credible as she was only able to describe moderate details of the sexual assaults. However, Individual A described that the sexual intercourse always occurred in storage room and when no one else was in the Pharmacy. She described that Mr. Parikh would place some sweaters on the floor, have Individual A lie down, take her pants off and then have sex with her.
495. Individual A described a “telltale sign” that Mr. Parikh intended on having sex with her is that he would go to the bathroom and come out “reeking of Axe” body spray. When this happened, Individual A “would know that it was going to happen. I would have to stay and do that.”
496. The Hearing Tribunal notes that these details of the sexual assaults bear a striking resemblance to the details shared by Individual B. Individual B testified that Mr. Parikh would take her into the back room, where it was dark, lay a jacket or sweater down and tell her to lie down. She indicated that Mr. Parikh would go in the bathroom and wash himself up and spray Axe body spray all over himself and then come in and shut the door. Then he

would come into the room after cleaning himself up in the bathroom and start taking her clothes off. Then it would be black, and he would then climb on top of her and have sex with her.

497. Both Individual A and Individual B testified that if they would not engage in sex with Mr. Parikh, he would become ignorant, call them names or degrade them in front of customers.
498. The Hearing Tribunal is cognizant of the fact that, prior to filing her ACP complaint, Individual A went to Individual B's house to speak to her about her experiences with Mr. Parikh. This would have afforded them the opportunity to essentially collude on their experiences and "line up their stories" in the event, as alleged by Mr. Parikh, they were just making up a story about him so they would not have to pay their charge accounts.
499. However, the Hearing Tribunal notes that not every single detail was aligned as between Individual A and Individual B. For example, Individual B stated that she knew she would be required to have sex with Mr. Parikh when he referred to her as "Slave [Individual B]. However, Individual A did not suggest that she was referred to in the same manner.
500. Further, in Mr. Parikh's evidence, he gave as an explanation for wearing the deodorant spray the fact that Individual A had a smell on her from all her animals. To this extent, Mr. Parikh appears to acknowledge that he was wearing body spray which lends credence to Individual A and Individual B's accounts that he used a body spray.
501. Similarly, Mr. Parikh gave an explanation as to why Individual A and Individual B were referring to sweaters being placed on the floor. He testified that he used to place sweaters or jackets on the floor to sleep after he had been drinking. Again, while he is offering an alternate explanation for the existence of jackets or sweaters on the floor, this also appears to be a tacit acknowledgement that there was a circumstance where jackets or sweaters were being placed on the floor as described by Individual A and Individual B.
502. In addition, Individual A testified that Individual B was initially reluctant to speak to her and was "standoffish" to the point that Individual A actually had to go to Individual B's home to speak to her. Individual B confirmed in her testimony that her first response to Individual A's inquiries was to tell Individual A to leave her alone. Even when Individual A came to Individual B's house, Individual B did not want to answer her. It took Individual A's dropping to her knees and crying about her experiences with Mr. Parikh for Individual B to feel compelled to share her own experiences. Similarly, Individual B was reluctant to participate with the ACP investigation and would not engage in a second interview with the investigator. Individual B's expressed reluctance to get involved and her initial "standoffish" behavior towards Individual A do not appear consistent with a desire to collude against Mr. Parikh.
503. In the result, the Hearing Tribunal is not prepared to accept that Individual A and Individual B lined up their stories in order to conspire against Mr. Parikh. We reject the suggestion that Individual A and B colluded.

(g) Other factors impacting the credibility of Individual A

504. While the Hearing Tribunal has found a number of factors that support the credibility of Individual A's version of events, certain points in Individual A's testimony did raise questions in the mind of the Hearing Tribunal. For example, Individual A testified that she and Mr. Parikh had sexual intercourse 2-3 times per week over the course of approximately one year. This would amount to, at minimum, over 100 episodes of sexual intercourse. However, despite this number of interactions, Individual A testified that she had never seen Mr. Parikh's penis. The Hearing Tribunal questioned whether this was ultimately plausible. However, Individual A did testify that it was always dark in the room where the intercourse occurred, so the Hearing Tribunal accepts that it is ultimately likely that Individual A did not see Mr. Parikh's penis at any point.
505. Along similar lines, Individual A, despite testifying that she had never seen Mr. Parikh's penis, was able to relay to the investigator that Mr. Parikh was circumcised. This was not consistent with Mr. Parikh's evidence that he was not circumcised. When asked on cross-examination why she believed Mr. Parikh was circumcised if she never saw his penis, Individual A explained "It's a different feeling." In other words, Individual A was explaining that she came to her conclusion based on how intercourse felt. This was only a very brief exchange during cross-examination and after providing this answer the questions moved onto another area. If we assume that Mr. Parikh was being truthful about not being circumcised, then this means that Individual A made a mistake and misinterpreted what she was feeling during intercourse. This is a tangential matter and does not affect the core part of Individual A's testimony about sexual intercourse taking place on many occasions. We do not find that any mistake by Individual A that she was feeling a circumcised penis during intercourse affects our overall conclusion that Individual A was credible, and Mr. Parikh was not.
506. While these issues raised some questions in the mind of the Hearing Tribunal, it did not view these issues to be significant enough to detract from the overall credibility of Individual A's evidence that there did exist a sexual relationship between her and Mr. Parikh.
507. Further, the Hearing Tribunal considered the length of time for which the sexual relationship persisted. Members of the Hearing Tribunal queried why, if Individual A was in a non-consensual sexual relationship as alleged, she would have let it go on this long and not taken steps to end it sooner. However, the Hearing Tribunal ultimately accepts that the dynamics surrounding sexual abuse are complex and considering why the relationship persisted for so long would be akin to asking why Individual A did not report the matter sooner. As noted above, the issue of whether or when an individual reports sexual assault should not be determinative of the individual's credibility. In addition, as discussed further below, the power imbalance that existed between Mr. Parikh and Individual A may well have impacted whether and when Individual A felt she could disclose what was occurring. Accordingly, the Hearing Tribunal does not find that the length of the period for which the unwanted sexual relationship continued impacts Individual A's credibility.

(h) Conclusions with respect to Allegation 1(c)

508. As described above, the Hearing Tribunal has serious concerns with Mr. Parikh's denial of the events as outlined in Allegation 1 given the content of the text messages exchanged between Mr. Parikh and Individual A.
509. As noted above, Mr. Parikh's responses are simply not consistent with his outright denial of any sexual activity. Rather, the more plausible narrative is that Mr. Parikh knew just what Individual A was referring to in their text messages (i.e., their sexual relationship) and this is why none of his text responses expressed any degree of shock or surprise or even questioned Individual A as to what she was alleging he had done.
510. In the view of the Hearing Tribunal, Mr. Parikh's contention that the texts were about Individual A's upset at him having slighted her at the Christmas party or that she was upset about her financial circumstances is implausible based on the actual language used and exchanged in the texts. Similarly, his offers of significant financial assistance made in response to Individual A's indication that she was going to report what happened do appear consistent with an effort to buy Individual A's silence.
511. Given the significant inconsistency between his current denial and the content of the text messages, the Hearing Tribunal finds that Mr. Parikh's account is less credible than that of Individual A. In addition, the evidence effectively rebuts the allegation that Individual A recently fabricated her evidence. We do not use these prior consistent statements by the witness as proof of the facts or to support the witness's overall reliability. Instead, we use it for a limited purpose to find that it rebuts the allegation of recent fabrication. Further, as set out above, the Hearing Tribunal did not find any further factors which operated to significantly diminish Individual A's credibility.
512. As such, the Hearing Tribunal finds that it is more likely than not that the sexual activity occurred as described by Individual A and the Hearing Tribunal accepts that Mr. Parikh engaged in sexual intercourse with Individual A in the Pharmacy on multiple occasions between October 2018 and September 2019.

(i) Nature of the relationship

513. Having determined that there was a sexual relationship between Mr. Parikh and Individual A, the Hearing Tribunal must also consider the nature of that relationship and whether the relationship was consensual at any point.
514. The Hearing Tribunal accepts that the conduct in question occurred over the course of just over a year, from October 2018 to at least September 2019. The issue of consent is not relevant for the period of sexual activity that occurred after April 1, 2019 as it is clear that Individual A was Mr. Parikh's patient. A sexual relationship occurring with a patient after April 1, 2019 would automatically amount to sexual abuse as set out in the *Health Professions Act*.

515. However, as the conduct that occurred between October 2018 and March 31, 2019 is not captured by the April 1, 2019 amendments to the HPA regarding sexual abuse and sexual misconduct, the Hearing Tribunal has considered the nature of the relationship between Individual A and Mr. Parikh over this period. Where Mr. Parikh states in his text message that nothing was done “forcefully”, this seems to suggest that he viewed any sexual relationship between them as consensual. Individual A, on the other hand, has testified that she was required to have sex with Mr. Parikh or her life working at the Pharmacy would be made very difficult.
516. In assessing the issue of consent, the Hearing Tribunal considered the fact that the relationship persisted for an extended period and questioned whether it was truly a non-consensual relationship in these circumstances. The Hearing Tribunal also considered whether the fact that Individual A was permitted to run up a large charge account seemingly without consequence and her freedom to procure and stock the pharmacy with the Breyer horses were benefits that she perceived to arise from her relationship with Mr. Parikh. If so, then these benefits could assist in explaining why the relationship persisted for an extended period as Individual A may have perceived that she was getting something out of the arrangement.
517. The Hearing Tribunal further notes that there is no evidence that Mr. Parikh used physical force in order to engage in sexual activity with Individual A. For example, the Hearing Tribunal did not hear any evidence to the effect that Mr. Parikh held Individual A down or otherwise physically forced himself on Individual A.
518. However, on balance, the Hearing Tribunal is ultimately prepared to accept that the sexual relationship was non-consensual at all relevant times. There is no question that physical coercion is only one form of coercion and that other forms of coercion can operate to force someone to engage in otherwise unwanted sexual activity. As stated earlier, there was a significant power imbalance between Mr. Parikh and Individual A. He was both her employer and her pharmacist. She was dependent on him for her livelihood and for pharmacy services for both her and her family. The Hearing Tribunal finds that this power imbalance left Individual A in a position where she felt she had no choice but to engage in the sexual activity if she wanted to keep her job and have access to pharmacy services in her small town.
519. As the power imbalance existed at all times, it would have impacted Individual A’s ability to freely consent to a sexual relationship over the course of the year that the sexual relationship took place.
520. In the result, the Hearing Tribunal finds that Mr. Parikh engaged in sexual intercourse with Individual A in the Pharmacy on multiple occasions between October 2018 and September 2019 without her consent. Allegation 1(c) is made out.

(j) Conclusions with respect to Allegations 1(a) and 1(b)

521. With respect to Allegations 1(a) and 1(b), Individual A testified that when she attempted to leave the kitchen, Mr. Parikh got up from the chair and blocked Individual A by putting his

hand on the fridge and tried to kiss her. Mr. Parikh then told Individual A that if she did not have sex with him, he would rape her.

522. Mr. Parikh offered a different narrative in this regard. He stated that Individual A put his hand on her chest and stated, “you can have it”. Mr. Parikh stated he could not stand properly at that time because of his drinking so he lost his balance and put his hand on the fridge to catch his fall. Mr. Parikh testified that Individual A was encouraging him to touch her. Mr. Parikh denied using his body to block Individual A against the fridge in the Pharmacy kitchen. He stated that he lost his balance and put his hand on the fridge to get support.
523. These allegations are also challenging to assess. However, given that the Hearing Tribunal has found that there was a non-consensual sexual relationship between Individual A and Mr. Parikh, and in light of the Hearing Tribunal’s concerns with Mr. Parikh’s credibility in terms of the existence of the sexual relationship, the Hearing Tribunal is also prepared to accept Individual A’s version of events as set out in Allegations (1)(a) and (b) and finds that it is more likely than not that Mr. Parikh used his body to block Individual A against the fridge and threatened to rape Individual A if she didn’t have sexual intercourse with him.
524. In reaching this conclusion, the Hearing Tribunal has also considered Mr. Parikh’s evidence that he could not stand properly at the time because of his drinking. If Mr. Parikh was in a state where he could not stand properly, then it follows that he was quite intoxicated at the time of these events and his memory and perception of the events are less likely to be reliable.
525. For greater certainty, the Hearing Tribunal has not automatically accepted Individual A’s version of events because of a failure by Mr. Parikh to apply the rule in *Browne v. Dunn*. Rather, the Hearing Tribunal has serious concerns with the credibility of Mr. Parikh’s version of events given its inconsistency with the content of the text messages. The Hearing Tribunal also has concerns about the reliability of his evidence given his intoxicated state.
526. The Hearing Tribunal notes here that while it has articulated concerns with Mr. Parikh’s credibility, the Hearing Tribunal does not accept the Complaints Director’s contention that Mr. Parikh’s credibility is automatically lessened because he would be motivated to provide false testimony in order to protect his professional livelihood. In the view of the Hearing Tribunal, this is akin to saying that any professional who chooses to defend the allegations against them should be automatically viewed as less credible because they will be motivated to protect their professional credentials and livelihood. Any professional facing unprofessional conduct charges is entitled to their “day in court” and to vigorously defend the allegations against them. Professionals should not automatically be viewed as less credible or as motivated to provide false testimony simply because they are exercising their right to defend themselves.
527. Having found that the conduct set out in Allegation 1 has been established, the Hearing Tribunal further finds that the conduct amounts to unprofessional conduct.

528. For the conduct that occurred on or after April 1, 2019, the Hearing Tribunal finds that the conduct meets the definition of sexual abuse in section 1(1)(nn.1)(i) of the HPA: “sexual intercourse between a regulated member and a patient of that regulated member”.
529. Further, the ACP’s Standards of Practice: Sexual abuse and sexual misconduct prohibit a regulated member from entering into or having a sexual relationship with a patient (Standard 1); engaging in any physical contact with a patient that is of a sexual nature (Standard 4); and d. engaging in any behaviour, either physical or verbal, with a patient that could reasonably be perceived to be of a sexual nature, including making sexually suggestive comments or gestures (Standard 6a).
530. For the period of time before April 1, 2019, the conduct also breaches the ACP’s Code of Ethics in that it is far from the patient’s best interest (Principle 1(1)), does not safeguard a patient (Principle 1(7)), does not prevent harm to a patient (Principles 1(1)(8)), exploits a patient for personal advantage (Principle 1(9)), creates a conflict of interest between patient and pharmacist (Principle 1(10)) and demonstrates an extreme failure to maintain professional boundaries (Principles 3(3)).
531. This conduct also breaches the legislation that governs the profession (Standards of Practice for Pharmacists and Pharmacy Technicians, Standard 1.1 and 1.2; Standards for the Operation of Licenses Pharmacies, Standard 1.1 and 1.2)). Further, it is unprofessional conduct that breaches a standard of practice and the ACP’s Code of Ethics (HPA, section 1(1)(pp)(ii)), contravenes another applicable enactment, the PDA (HPA, section 1(1)(pp)(iii)) and is harmful to the integrity of the profession (HPA, section 1(1)(pp)(xii)). It is also misconduct in that it contravenes the code of ethics and thus is a breach of the PDA (PDA, section 1(1)(p)(i)), is detrimental to the public interest (PDA, section 1(1)(p)(ii)), contravenes the HPA (PDA, section 1(1)(p)(vi)) and harms the integrity of the profession (PDA, section 1(1)(p)(ix)).
532. Allegations 1(a), 1(b) and 1(c) have been made out.

3. Allegation 2

533. According to Individual A, in October 2018, Mr. Parikh was counting inventory while Individual A was typing information into the computer. Mr. Parikh went to the washroom and when he returned, he stood by Individual A and told her he had just brushed his teeth. Individual A responded, “that’s really nice of you, I guess” to which Mr. Parikh asked “can I have a kiss?” and Individual A replied “no, absolutely not, that it was inappropriate” before leaving the store shortly thereafter. The following day, Mr. Parikh apologized to Individual A and told her that “it was due to the alcohol”. After this, Individual A moved on and tried to let “bygones be bygones”.
534. Sometime after the evening where Mr. Parikh asked for a kiss and following Mr. Parikh’s return from a trip, Individual A was at the sink washing the dishes from the day while Mr. Parikh sat on a chair. Individual A indicated that she made conversation with Mr. Parikh and asked how his vacation had been and Mr. Parikh said, “I spent every night masturbating to the thought of you”.

535. According to Mr. Parikh, in October 2018, Individual A proposed to Mr. Parikh that they work late and do inventory. Mr. Parikh wanted Individual A to do the inventory with another employee, but Individual A was insistent that Mr. Parikh do the inventory with her. He agreed but when they started to do the inventory, Mr. Parikh thought that he should go and brush his teeth because his food has lots of garlic and onion. When he came back, Individual A asked where he had been and he said that he had brushed his teeth to make himself fresh. Individual A then asked if he had a plan to kiss and he said “to who?”. Individual A laughed at him and Mr. Parikh testified that he ignored her and they started the inventory. On cross-examination, Mr. Parikh denied that he told Individual A that he had just brushed his teeth and wanted a kiss. Mr. Parikh’s version of events was not put to Individual A on cross-examination.
536. Mr. Parikh also testified that on another evening, he was watching cooking recipes on YouTube around 6:15 when Individual A came to him and said she was doing some horse inventory. Mr. Parikh testified that Individual A then asked him if he was watching porn. He said no and stated that Individual A replied by stating that he didn’t need to watch porn anymore because she was here for him. Mr. Parikh didn’t say anything in response to that suggestion and just laughed, thinking that she was making “some kind of fun or something”.
537. On cross-examination, Mr. Parikh denied telling Individual A that he had masturbated to the thought of her as it was totally the opposite. Individual A said I am here now and you can think of me and masturbate. Mr. Parikh stated that he laughed at Individual A and said that he was fine with his porn.
538. With respect to Allegation 2(a), both Individual A and Mr. Parikh appear to be in agreement that there was an evening where they stayed late doing inventory and where Mr. Parikh brushed his teeth. The difference in accounts turns on whether Mr. Parikh asked Individual A if he could have a kiss or whether Individual A asked him if he had a plan to kiss.
539. Similarly, with respect to Allegation 2(b), Individual A and Mr. Parikh again appear to agree that they were working late doing inventory. The difference in accounts turns on whether Mr. Parikh told Individual A that he spent every night of his trip masturbating to the thought of Individual A or whether Individual A asked him if he watching porn and then told him that he didn’t need porn anymore because he could think of her and masturbate.
540. As with Allegation 1, the events underlying Allegations 2(a) and 2(b) are the subject of a credibility contest between Mr. Parikh and Individual A. As discussed above in the reasons with respect to Allegation 1, the Hearing Tribunal has determined that Individual A is more credible than Mr. Parikh in terms of whether there was sexual interaction between them. Given the Hearing Tribunal’s concerns with Mr. Parikh’s credibility, it is prepared to accept that it is more probable than not that Individual A’s description of the events set out in Allegation 2 occurred as alleged.
541. In reaching this conclusion, the Hearing Tribunal also notes Individual A’s evidence that Mr. Parikh apologized to her the following day after asking for a kiss and stated that it was “due to the alcohol”. This appears to be quite similar to the statement made by Mr. Parikh

in his December 19, 2019, texts with Individual A where he states “I did nothing wrong; nothing was done forcefully. I was also mentally upset and drunk all the time.”

542. Given that Mr. Parikh states in his text that his behavior was due, at least in part, to being drunk all the time, the Hearing Tribunal finds that it is plausible that he would have made a similar statement to Individual A in these circumstances as well. In other words, the fact that Mr. Parikh has, in his own words, blamed the use of alcohol for his behavior makes Individual A’s evidence that he said the same thing to her appear more credible.
543. Further, for greater certainty, the Hearing Tribunal has not automatically accepted Individual A’s version of events because of a failure by Mr. Parikh to apply the rule in *Browne v. Dunn*. Rather, the Hearing Tribunal has serious concerns with the credibility of Mr. Parikh’s version of events as set out above and in the reasons for decision under Allegation 1.
544. The Hearing Tribunal accepts that the conduct set out in Allegation 2 occurred as alleged in October 2018. That being the case, the April 1, 2019, amendments to the HPA are not applicable to this conduct. However, the Hearing Tribunal nevertheless finds that the conduct set out in Allegation 2 is unprofessional conduct.
545. By engaging in this conduct, Mr. Parikh breached Standards 1.1, 1.2 and 2 of the Standards of Practice for Pharmacists and Pharmacy Technicians, Standards 1.1 and 1.2 of the Standards for the Operation of Licensed Pharmacies and Principles 1, 3 and 10 of the ACP’s Code of Ethics.
546. In terms of the HPA and the PDA, the conduct breaches a standard of practice and the ACP’s Code of Ethics (HPA, section 1(1)(pp)(ii)), contravenes another applicable enactment, the PDA (HPA, section 1(1)(pp)(iii)) and is harmful to the integrity of the profession (HPA, section 1(1)(pp)(xii)). It is also misconduct in that it is contravenes the code of ethics and thus is a breach of the PDA (PDA, section 1(1)(p)(i)), is detrimental to the public interest (PDA, section 1(1)(p)(ii)), contravenes the HPA (PDA, section 1(1)(p)(vi)) and harms the integrity of the profession (PDA, section 1(1)(p)(ix)).

4. Allegation 3

547. There is no dispute that Individual B was both a patient and an employee of the Pharmacy. Beyond these basic facts, however, like Allegation 1, this is a very challenging allegation to assess. The evidence regarding the conduct underlying the allegation engages a classic he-said, she-said credibility contest. Individual B has testified that the sexual conduct occurred while Mr. Parikh denies all the conduct alleged against him.

(a) Evidence of Individual B

548. Individual B testified that on one occasion, she asked Mr. Parikh for a \$50 advance on her pay cheque to cover her rent and he told her to wait until after work. After work, they went into the kitchen and Mr. Parikh pulled \$50 out of his wallet and started unzipping his pants.

Individual B testified that she then gave Mr. Parikh oral sex for \$50 to pay her rent. She did not want to perform oral sex on him, but she did it for the \$50.

549. On cross-examination, she indicated that it was dark in the kitchen as Mr. Parikh turned the lights off. She stated that she did not see his penis as she had her eyes closed the whole time. She could not see that the bill in Mr. Parikh's hand was a \$50 bill, but she assumed that it was as that was the amount she had asked for.
550. Subsequent to that incident, there were many occasions where Mr. Parikh had sex with Individual B in the back room behind the Pharmacy. This happened after work after everyone was gone. The encounters always happened in the back room and lasted 15 to 20 minutes or so. The encounters would happen two or three times per week.
551. Individual B testified that she never initiated the encounters but that she knew when they were coming because Mr. Parikh would come to work and tell Individual B that she was the boss. That meant that if she got to be the boss of the Pharmacy for the day, he would get to have his way with her after work. Mr. Parikh would call her a name that commenced with "Slave" and then incorporated her name.
552. Individual B testified that Mr. Parikh would take her into the back room, close both doors, lay a jacket or sweater down and tell her to lie down. Then he would come into the room after cleaning himself up in the bathroom and start taking her clothes off. He would then climb on top of her and have sex with her.
553. Mr. Parikh would pay her occasionally for sex. One time he paid her \$500 and she went to Walmart and bought a snowsuit for her child. She also bought gas, supper and groceries. He did not pay her every time, only the odd time – he would say "oh here's \$70 or here's \$120" after it was done.
554. Individual B testified that the sexual encounters went on for about a year and a half or maybe two years. When asked why she didn't stop them, Individual B testified that she was scared to leave and to not be able to support her son. Eventually, she met a boyfriend who wanted her to be a stay-at-home mom, so she took that opportunity to leave the Pharmacy. This is when the sexual encounters stopped. This was around 2016.
555. Individual B agreed that Mr. Parikh was generally quite generous with his money. She confirmed that he had lent her \$5,800 for a dirt bike in 2012 and he was going to take amounts off her pay cheque in repayment. She believed that she repaid half the amount back but then Mr. Parikh stopped taking the payments off. Individual B testified that in her view, he stopped taking the payments off because she was giving him sex and oral sex to pay off the rest of it.
556. Individual B also agreed that she charged around \$1,600 in Visa cards to her charge account as she needed a damage deposit for her apartment. She stated that Mr. Parikh said this was okay. Individual B also agreed that Mr. Parikh gave her \$1,600 for surgery for her dog and did not ask her to pay it back. She denied that Mr. Parikh paid for a trip to Radium Hot Springs for her and her boyfriend.

(b) Evidence of Mr. Parikh

557. Mr. Parikh provided a very different narrative to that of Individual B. Mr. Parikh testified that on two occasions Individual B jumped on him and hugged him and started to kiss him. He also testified that Individual B did this to Mr. Parikh's friend, [REDACTED]. The Hearing Tribunal puts no weight on the suggestion that Individual B jumped on [REDACTED] and started kissing and hugging him. [REDACTED] was not called as a witness to corroborate this account nor was the incident with [REDACTED] put to Individual B on cross-examination. Similarly, neither of Mr. Parikh's accounts of Individual B jumping on him and kissing and hugging him were put to Individual B on cross-examination in accordance with the rule in *Browne v. Dunn*.
558. However, even if these incidents had been put to Individual B and even if she agreed that the incidents had happened, this does not necessarily mean that the conduct in Allegations 3(a) and 3(b) did not occur as alleged. As such, the Hearing Tribunal has not put significant weight on Mr. Parikh's assertions in this regard.
559. On cross-examination, Mr. Parikh denied engaging in sexual intercourse with Individual B in the Pharmacy on multiple occasions in 2015 and 2016 without her consent. Mr. Parikh further denied asking Individual B to perform oral sex on him for \$50. He testified that it was Individual B's former boyfriend who asked Individual B to do this when she told him she was short on rent money. He told her that he could always help her out.
560. Mr. Parikh's evidence implicitly acknowledges that there was an incident that involved oral sex in exchange for \$50. However, he states that the incident involved her former boyfriend asking for oral sex in exchange for \$50.
561. Mr. Parikh agreed that in 2012 he loaned Individual B \$5,800 for a dirt bike for her boyfriend. He would deduct \$100 per paycheck as repayment. Eventually, Mr. Parikh stopped making the deductions because Individual B was struggling financially, and he told her she could repay him when she had the money. Mr. Parikh testified that he saw Individual B take Visa gift cards for herself without charging them to her charge account. He stated that he caught her stealing. However, he didn't say anything to her because she was upset and moving.
562. When asked to respond to Individual B's allegations of sexual abuse, Mr. Parikh stated it was very shocking. He referred to the fact that all of Individual A, Individual B and Individual C had been stealing money through the credit gift cards. Mr. Parikh stated that he told them that because they had taken over \$5,000, they could be criminally charged and go to jail. He stated they were shocked and knew they were in big trouble and that is when "these three become together". That is why Individual A and Individual C involved Individual B in this matter as well. He surmised that the ACP complaint came about because he threatened them that if you steal more than \$5,000, you will be in big trouble.

(c) Charge account

563. Individual B confirmed that she had a charge account at the Pharmacy. She was unsure what the balance was, but she has not paid it off. She stated that [REDACTED] had been sending her

bills in the mail about her charge account. Individual B agreed on cross-examination that she owed about \$3,000 on her charge account as of 2014 and that she was experiencing financial difficulties at that time. There was no evidence before the Hearing Tribunal regarding the amount owing on Individual B's charge account at the time of the hearing. In particular there was no evidence that Individual B owed more than \$5,000.

564. It is unclear to the Hearing Tribunal how or when Mr. Parikh told Individuals A, B, and C that because they had taken over \$5,000, they could be criminally charged and go to jail, particularly in the case of Individual B as she did not work at the Pharmacy in December 2019 when [REDACTED] brought the matter of the charge accounts to Mr. Parikh's attention. While it is feasible that he could have made these comments in person to Individuals A and C as they worked at the Pharmacy at that time, it is unclear how this message was conveyed to Individual B. Given that Individual B did not work at the Pharmacy at that time, the message would presumably have to have been delivered over phone, text, email or social media. However, no evidence was provided to the Hearing Tribunal substantiating this contact with Individual B and it was not put to her on cross-examination whether Mr. Parikh had confronted her about her charge account.
565. With respect to the loan for the dirt bike, there is no evidence that Mr. Parikh has ever taken steps to collect on that loan or advised Individual B that he would do so. Indeed, it may well be that Mr. Parikh is barred by a limitation period from seeking to collect this loan at this point.
566. In terms of the Visa gift cards, Individual B states that she had permission to take the gift cards. Mr. Parikh denies this and alleges that Individual B was stealing the gift cards. However, by his own admission, he did not say anything to Individual B about the gift cards nor did he take any steps to pursue Individual B for what he described as theft.
567. In the circumstances, it does not appear to the Hearing Tribunal that Individual B had any knowledge or understanding in or around March 2020 when the ACP complaint was filed that she was in any jeopardy with respect to the money she owed to the Pharmacy or Mr. Parikh. Accordingly, it does not make sense to the Hearing Tribunal that Individual B would have joined forces with Individuals A and C, as alleged, in an attempt to leverage Mr. Parikh into forgiving her debts.
568. For the reasons set out above, the Hearing Tribunal does not accept that Individual B had an ulterior motive in participating in the ACP proceedings and accordingly, it does not accept that Individual B is a less credible witness simply because she had money owing to the Pharmacy.

(d) Discussions with Individual A

569. When Individual A came to Individual B's house, she asked Individual B how her relationship was with Mr. Parikh. Individual B knew what Individual A was getting at but she did not want to answer her. Individual B then described Individual A dropping her to knees crying and saying that she had been raped by Mr. Parikh for two years. This caused Individual B to start crying as well. She felt that she should have done something before

things got to that point, but she hadn't. Eventually she admitted to Individual A that the same had happened to her.

570. Under cross-examination, Individual B described the details of her encounters that she shared with Individual A. She stated that told Individual A that Mr. Parikh would call her the boss in the day and then the sexual encounter would happen at night. If Individual B tried to leave the Pharmacy, Mr. Parikh would get ignorant and physical with her and call her names. She told Individual A that Mr. Parikh would lay a sweater down in a small, dark room where it was pitch black and tell her to lie down on the sweater. She indicated that Mr. Parikh would go in the bathroom and wash himself up and spray Axe body spray all over himself and then come in and shut the door. Then it would be black and he would climb on top of her. At that point, Individual A started crying because she stated that that was exactly how it had happened to her too. Individual A then shared details with Individual B about what happened between her and Mr. Parikh and then Individual B "was, like, oh my god, that's what happened to me".
571. Individual A and Individual B did not discuss their charge accounts when they met at Individual B's house.
572. As described above in the reasons with respect to Allegation 1, the Hearing Tribunal has considered whether the similarity between Individual A and Individual B's accounts reflects an attempt to line up stories in order to conspire against Mr. Parikh. However, it ultimately concluded that this is not the case.
573. The Hearing Tribunal finds that this conclusion is bolstered when one considers that Mr. Parikh's narrative would mean that Individual B, who appears to have had little to do with Mr. Parikh since 2017, either socially or terms of debts owing to the Pharmacy, would all of a sudden come out of the woodwork and conspire with Individual A in February 2020 (with whom she had not maintained a regular friendship since leaving the Pharmacy) to fabricate a story about sexual abuse, and to do so in circumstances where she didn't even appear to have any knowledge that she might have to face her debts owing to the Pharmacy.
574. The Hearing Tribunal does not find this to be plausible. Rather, in its view, the more plausible narrative is that Individual B was upset on learning that Individual A had undergone the same experiences that she had with Mr. Parikh, and she felt compelled to come forward to assist Individual A and so that she could prevent things "from getting to that point" for others.

(e) Stereotypes associated with victims of sexual assault

575. For the same reasons described above with respect to Individual A in Allegation 1, the Hearing Tribunal does not accept that the fact that Individual B maintained a social relationship with Mr. Parikh or returned to work at the Pharmacy after the period of the alleged abuse has any impact on her credibility. As described earlier, the lack of avoidant behavior can tell the trier of fact nothing about a sexual assault allegation. Similarly, the Hearing Tribunal does not view the delay in disclosure or the length of time that the abuse is alleged to have occurred as diminishing Individual B's credibility. The significant power

imbalance between Individual B and Mr. Parikh may well have meant that Individual B felt that she had to go along with things in order to keep her job and pharmacy care.

(f) Conclusions with respect to Allegation 3

576. The Hearing Tribunal has reviewed the factors affecting credibility and has not identified any factors that would suggest that Individual B is not a credible witness. By contrast, the Hearing Tribunal has identified concerns with respect to Mr. Parikh's credibility and the plausibility of his narrative.
577. Accordingly, the Hearing Tribunal is prepared to accept, on the balance of probabilities, that the conduct set out in Allegations 3(a) and (b) occurred as alleged by Individual B.
578. As with Allegation 1(c), the Hearing Tribunal has further considered whether the sexual activity described in Allegations 3(a) and (b) was consensual or not. In the view of the Hearing Tribunal, the sexual interactions cannot be considered consensual given the significant power imbalance between Individual B and Mr. Parikh. Not only was Mr. Parikh Individual B's employer and pharmacist, but he was also aware of her precarious financial situation. Individual B needed money to pay for her rent and to purchase things like a snowsuit for her child. It appears to the Hearing Tribunal that Mr. Parikh took advantage of a young woman in challenging socioeconomic circumstances. She had few resources and fewer options for financial assistance. Mr. Parikh leveraged this power imbalance for his own sexual gratification. In these circumstances, consent to the sexual activity could not be freely given by Individual B.
579. The conduct set out in Allegations 3(a) and (b) is plainly unprofessional conduct. While the April 1, 2019, amendments to the HPA do not apply to this conduct, the conduct is nevertheless egregious conduct which falls on the most serious end of the spectrum of unprofessional conduct.
580. This conduct breaches the ACP's Code of Ethics in that it is far from the patient's best interest (Principle 1(1)), does not safeguard a patient (Principle 1(7)), does not prevent harm to a patient (Principles 1(1)(8)), exploits a patient for personal advantage (Principle 1(9)), creates a conflict of interest between patient and pharmacist (Principle 1(10)) and demonstrates an extreme failure to maintain professional boundaries (Principles 3(3)).
581. This conduct also breaches the legislation that governs the profession (Standards of Practice for Pharmacists and Pharmacy Technicians, Standard 1.1 and 1.2; Standards for the Operation of Licenses Pharmacies, Standard 1.1 and 1.2)). Further, it is unprofessional conduct that breaches a standard of practice and the ACP's Code of Ethics (HPA, section 1(1)(pp)(ii)), contravenes another applicable enactment, the PDA (HPA, section 1(1)(pp)(iii)) and is harmful to the integrity of the profession (HPA, section 1(1)(pp)(xii)). It is also misconduct in that it contravenes the code of ethics and thus is a breach of the PDA (PDA, section 1(1)(p)(i)), is detrimental to the public interest (PDA, section 1(1)(p)(ii)), contravenes the HPA (PDA, section 1(1)(p)(vi)) and harms the integrity of the profession (PDA, section 1(1)(p)(ix)).

582. Allegations 3(a) and 3(b) have been made out.

5. Allegation 4

(a) Comments regarding weight

583. Individual C was a patient of Mr. Parikh's and received medication for weight loss. Mr. Parikh paid for her weight loss prescriptions.

584. Individual C confirmed that she was trying to lose weight for cosmetic reasons. She testified that she saw a doctor about weight loss, and he recommended surgery. She also recalled that Mr. Parikh made a recommendation that she try Ozempic instead of surgery for weight loss. Based on this suggestion, Individual C went to a doctor and got a prescription for Ozempic. Individual C conceded that she approached Mr. Parikh about her weight on a professional level and that he had to engage in a conversation about her weight to do his job to a certain degree. However, Individual C stated that Mr. Parikh should not engage in fat shaming.

585. Individual C testified that Mr. Parikh always told her to walk to work, drink hot water and to lose weight so she looked better. When customers would come in with treats for the Pharmacy employees, Mr. Parikh would tell them to take the treats back because there was "enough fat here". Individual C stated that Mr. Parikh's comments about her weight were not clinical in nature. Individual C felt very embarrassed and disgusted when Mr. Parikh would make comments about her weight. She did not, however, advise Mr. Parikh of how his comments made her feel. She didn't think she should have to.

586. In support of the fact that Mr. Parikh made comments regarding her chest that made her uncomfortable, Individual C provided text messages between herself and Mr. Parikh where she told him he had no right to make comments about her weight. These texts, dated March 13, 2020, state:

"It is also not ok to body shame me or [Individual A] or anyone...you have no right to comment on my weight or my chest. Your comments to customers that bring in goodies because they appreciate us you tell them no because there is enough fat around here...You made me feel so insecure. Always telling me to drink hot water in the morning, walk more, exercise more."

No response to this text from Mr. Parikh was provided in evidence before the Hearing Tribunal. The text messages do not specifically state that Mr. Parikh told Individual C to lose weight to look better.

587. Mr. Parikh's testimony was consistent with that of Individual C in that he testified that Individual C went to the doctor about her weight, and he recommended surgery. Mr. Parikh told her that there were medications available for weight loss, like Ozempic, and he suggested trying medication first before surgery. Mr. Parikh agreed to pay for the weight loss medication, as he had done for [REDACTED] husband. Individual C took the medication for 6-8 months. Mr. Parikh also suggested some lifestyle changes to Individual C including

trying to drink hot lemon water a couple times per day. However, on cross-examination, Mr. Parikh denied telling Individual C to lose weight to look better.

588. Individual A testified that she personally witnessed Mr. Parikh suggesting to Individual C that she lose weight to look better but she did not recall when she witnessed this.
589. ■■■ did not witness any discussions between Mr. Parikh and Individual C regarding her weight. ■■■ recalls Individual C mentioning a prescription for a weight loss drug but it this was “much later” and may have been after Individual C left work at the Pharmacy. ■■■ recalled Individual C talking to others in the Pharmacy about her concern with how Mr. Parikh talked to her about her weight. ■■■ described Individual C as having insecurities about the way she looks and speculated that she “may have taken things the wrong way”. ■■■ explained that she was not in the pharmacy area very much so did not observe a lot of the interactions between staff there.
590. The Hearing Tribunal finds that there were discussions between Individual C and Mr. Parikh regarding Individual C’s weight. However, it is less clear whether these discussions were clinical in nature, between a pharmacist and his patient, or whether they amounted to “fat shaming” as described by Individual C.
591. The specific allegation is that Mr. Parikh told Individual C to lose weight to look better. Individual C testified that he made that comment to her, although she did not specifically reference that comment in her text message to him. Individual A testified that she personally witnessed Mr. Parikh telling Individual C to lose weight to look better but she provided no specifics in her testimony with respect to when these comments were made, how many times they were made or the context in which they were made. ■■■ testified that she recalled Individual C talking to others in the Pharmacy about her concern with how Mr. Parikh talked to her about her weight, but she did not specifically refer to Mr. Parikh telling Individual C to lose weight to look better. Mr. Parikh denies making this statement. ■■■ did not witness any discussions between Mr. Parikh and Individual C regarding her weight.
592. The Tribunal notes that if Mr. Parikh had made comments to customers bringing in goodies that “there was enough fat around here”, as alleged by Individual C in her testimony and in the text messages, that these comments would not have a clinical basis and would be more in the nature of “fat shaming”. If it were clear that Mr. Parikh had made these comments, then this might be persuasive to the Hearing Tribunal to demonstrate that Mr. Parikh had engaged in fat shaming conduct to a certain degree. However, the Hearing Tribunal notes that the issue of whether Mr. Parikh had turned away the baked goods and made that comment was not put to him in cross-examination in accordance with the rule in *Browne v. Dunn*. Accordingly, the Hearing Tribunal is not prepared to put significant weight on the evidence with respect to the turning away of the baked goods and making the comments that there is “enough fat here”.
593. In light of the evidence of Individual C and Individual A, who the Hearing Tribunal has found to be a credible witness, that Mr. Parikh told Individual C to lose weight to look better and the evidence of ■■■ that Individual C was talking to others in the Pharmacy about her concern with how Mr. Parikh talked to her about her weight, the Hearing Tribunal is

prepared to accept that it is more probable than not that Mr. Parikh told Individual C to lose weight to look better.

594. However, the Hearing Tribunal is not satisfied that this comment was made in the sense of an attempt by Mr. Parikh to “fat shame” Individual C. Given that there was a clinical relationship between Mr. Parikh and Individual C in terms of her weight loss, there was a basis for them to be discussing her weight. It is possible that Mr. Parikh made this comment of this nature in the context of clinical counselling and as noted, by [REDACTED], Individual C may have taken it the wrong way. Ultimately, the Hearing Tribunal is not satisfied on the balance of probabilities that Mr. Parikh intended to “fat shame” Individual C in making this comment and therefore the Hearing Tribunal does not find that the conduct amounts to unprofessional conduct.

595. Accordingly, Allegation 4(a) is not made out.

(b) Staring at chest

596. Individual C described that she stopped wearing her Pharmacy name tag as she would catch Mr. Parikh looking at her chest and he would say that he was looking at her name tag and “what’s your name again?” jokingly. However, she knew that he was looking at her chest. She did not advise Mr. Parikh that this made her uncomfortable. She just stopped wearing her name tag.

597. In support of the fact that Mr. Parikh made comments regarding her chest that made her uncomfortable, Individual C provided text messages between herself and Mr. Parikh. The relevant text messages, dated March 13, 2020, stated “You have no right to comment on my weight or my chest. [...]. I hated you look [sic] at my chest and saying, “what’s your name” when I would catch you.” No response from Mr. Parikh to these text messages was provided in evidence before the Hearing Tribunal.

598. Individual A also witnessed Mr. Parikh repeatedly staring at Individual C’s chest. None of [REDACTED], [REDACTED], or [REDACTED] observed Mr. Parikh repeatedly staring at Individual C’s chest. However, [REDACTED] was rarely at the Pharmacy at this time and [REDACTED] worked mainly in the front of the store. [REDACTED] would have been in the dispensary about half of the time and never observed any inappropriate interactions between Individual C and Mr. Parikh.

599. Mr. Parikh testified that Individual C told him that two male customers would always come in and stare at her chest and they would joke about it and laugh. On cross-examination, Mr. Parikh testified that he asked Individual C if she was OK and told her that she could have another employee serve the two male customers if she was not comfortable interacting with them. He testified that Individual C said that she was fine, and it was just a joke.

600. With respect to the name tag, Mr. Parikh testified that he told Individual C that when he was new in Canada, he would rely on name tags to remember the staff he was working with because he would often be working with different staff. On cross-examination, Mr. Parikh denied that that he stared at the name tag on Individual C’s chest such that she stopped wearing the name tag.

601. To the extent that Mr. Parikh was suggesting to Individual C that the men who would come in and stare at her chest were reading her name tag to remember her name, this does not seem to be a plausible explanation for their conduct. Given that the Pharmacy was located in a small town and these men were repeat customers to the Pharmacy, it is more likely than not that the men already knew Individual C's name and even if they didn't, there is less need for a customer to know a pharmacy technician's name than there is for a co-worker to know another co-worker's name. In any event, the allegation here is that Mr. Parikh repeatedly stared at the nametag on Individual's C's chest such that she stopped wearing a nametag.
602. The Hearing Tribunal also takes note here of the text messages sent by Individual C to Mr. Parikh on March 13, 2020. The text message described the same behavior as set out in this allegation, at a time long before this unprofessional conduct hearing was convened. While it is likely that Individual C knew at this time that Individual A was going to file an unprofessional conduct complaint with ACP against Mr. Parikh (the complaint was dated March 1, 2020 and marked was received by the ACP on March 31, 2020) and that Individual A would be providing Individual C's name to the ACP within the complaint as someone from whom the ACP could obtain information, it is less clear whether Individual C was aware at that time that there would be allegations against Mr. Parikh involving Individual C personally.
603. Mr. Parikh alleges that Individual C recently fabricated her evidence. Therefore, the Hearing Tribunal utilizes the text messages to rebut the allegation of recent fabrication by Individual C. We do not use these prior consistent statements by the witness as proof of the facts or to support the witness's overall reliability. Instead, we use it for a limited purpose to find that it rebuts the allegation of recent fabrication.
604. While Mr. Parikh denies that he repeatedly stared at the nametag on Individual's C's chest such that she stopped wearing a nametag, when Individual C's evidence is combined with the corroborating evidence of Individual A and the content of the March 13, 2020 text messages to rebut the allegation of recent fabrication the Hearing Tribunal finds that it is more probable than not that this conduct occurred as alleged.
605. There are no specific timelines attached to this allegation nor were any specific timelines of when this conduct occurred established through the evidence. To this extent and given that Individual C worked at the Pharmacy between March 2018 and March 2020, the Hearing Tribunal is unable to determine whether the conduct occurred at a time where the April 1, 2019 amendments to the HPA regarding sexual misconduct and sexual abuse were in force.
606. However, the Hearing Tribunal is nonetheless satisfied that the conduct in question amounts to unprofessional conduct. Plainly, staring at an employee's chest in a manner that made her uncomfortable to the point where she stopped wearing a nametag is unacceptable conduct. Similarly, Individual C was a patient and Mr. Parikh's conduct failed to respect the boundaries of a professional relationship.
607. This conduct is conduct that plainly harms the integrity of the profession under section 1(1)(pp)(xi) of the HPA and is detrimental to the best interests of the public under section

1(1)(pp)(ii) of the *Pharmacy and Drug Act*. Similarly, this conduct contravenes Principles 1 and 3 of the ACP Code of Ethics as well as ACP Standard of Practice 1.1.

608. Allegation 4(b) has been proven by the Complaints Director.

(c) Allowing friend, ■ to socialize in pharmacy

609. Individual C described a few incidents where a patient, ■ came in and wanted to be friends with her. She described ■ as “not mentally there”. Individual C stated that ■ scared her a few times as he told her that he wanted to get rid of her husband so he could be with her. Beyond this comment, Individual C did not provide further evidence of any comments that ■ would make to her. However, Individual C testified that ■ would just stand there and watch Individual C. She explained to Mr. Parikh that she was terrified of ■ but Mr. Parikh would just laugh.

610. Individual A also recalled Mr. Parikh allowing ■ to socialize with Mr. Parikh in the pharmacy but she did not witness ■ making comments of a sexual nature to Individual C. Individual A only heard after the fact from Individual C that ■ had made comments to her of a sexual nature.

611. ■ was aware of Mr. Parikh’s friend hanging out at the Pharmacy from time to time; she observed that the friend was very friendly and would stay with Mr. Parikh or ride share with Mr. Parikh sometimes.

612. Mr. Parikh testified that ■ was a customer and not in good shape mentally. Individual C told Mr. Parikh that ■ asked if she was single and told her she was always charming and smiling. ■ was from the same culture as Mr. Parikh, and they would speak in their native language and laugh about different things. Usually, ■ was relaying a story about something that happened when he was living in Edmonton. Mr. Parikh testified that he told Individual A and Individual C what they were talking about, and Individual A and Individual C would laugh with them. On cross-examination, Mr. Parikh stated that he had only hung out with ■ one time at the Pharmacy.

613. The Hearing Tribunal finds that it is more likely than not that ■ was allowed to socialize in the Pharmacy on more than one occasion. The evidence of Individual C, Individual A and ■ suggests that ■ was in the Pharmacy on more than one occasion or “from time to time”. Even Mr. Parikh, while he testified that he had only socialized with ■ once in the Pharmacy, stated that he and ■ would speak in their native language and laugh about “different things”. He would then tell Individual A and Individual C what they were talking about, and Individual A and Individual C would laugh with them. It seems unlikely that what Mr. Parikh described about he and ■ talking about “different things” and sharing them with Individual A and Individual C would only transpire on one occasion. It is more likely that the “different things” were discussed over the course of more than one Pharmacy visit.

614. While the Hearing Tribunal accepts that Mr. Parikh repeatedly allowed ■ to socialize with him in the Pharmacy, in order to make out the allegation, the Hearing Tribunal must also find that Mr. Parikh knew that ■ made comments of a sexual nature to Individual C.

Individual C described [REDACTED] telling her he wanted to get rid of her husband so he could be with her. Mr. Parikh concedes that Individual C told him that [REDACTED] asked if she was single and told her she was always charming and smiling. Individual A had no direct knowledge of any sexual comments being made to Individual C by [REDACTED]. She was advised by Individual C that [REDACTED] had made comments of a sexual nature to Individual C, but Individual A did not provide any detail on what the comments of a sexual nature were. [REDACTED] described [REDACTED] as very friendly. [REDACTED] did not provide any evidence that related to comments of a sexual nature being made by [REDACTED] to Individual C.

615. The only comments made by [REDACTED] to Individual C which are in evidence before the Hearing Tribunal are the following: that [REDACTED] said to Individual C that he wanted to get rid of her husband so he could be with her; that he asked if she was single; and that he said she was always smiling and charming. Even if the Hearing Tribunal accepts that Mr. Parikh knew of all these comments, it is not clear that these comments rise to the level of a “sexual nature”. While the Hearing Tribunal accepts that the comment about wanting to get rid of Individual C’s husband is disconcerting and while it further accepts that the comments certainly suggest that [REDACTED] was interested in Individual C, the Hearing Tribunal is ultimately not satisfied that the comments in question were of a “sexual nature”. Accordingly, Allegation 4(c) has not been made out.

6. Allegation 5

616. The evidence with respect to the conduct underlying allegation 5 is very limited. Despite best efforts of the Complaints Director, Individual D did not testify before the Hearing Tribunal. Mr. Parikh denies the allegations with respect to Individual D.
617. The Complaints Director submits that Individual D’s interview transcript from her interview with Dr. Acton is sufficient evidence to prove Allegation 5 on a balance of probabilities.
618. In her June 26, 2020 interview with Mr. Acton, Individual D described that she felt uncomfortable with Mr. Parikh in part, because he would invite her to stay after work to drink and to go for drinks on a regular basis and that he indicated to her that it was ok to have an affair against your wife. Individual D also stated that after she started working out more, Mr. Parikh would comment on the changes in her body and that she was starting to look better. She said this made her start wearing baggy clothing.
619. While the interview transcript contains statements made by Individual D, these statements were not made during the hearing process itself nor were they made under oath nor was there any opportunity to cross-examine Individual D on these statements. As these are statements made outside the hearing process, this evidence would be considered hearsay.
620. The Complaints Director suggests that the Hearing Tribunal may rely on the hearsay evidence contained in the interview transcript because Mr. Parikh did not challenge the validity of the transcript. Certainly, Mr. Parikh could have challenged the evidence in the interview transcript if Individual D had come to the hearing and testified as Mr. Parikh would then have had an opportunity to cross-examine Individual D. However, Individual

D did not appear at the hearing and Mr. Parikh did not have the opportunity to exercise his right of cross-examination. Absent the right of cross-examination, it is not clear to the Hearing Tribunal how Mr. Parikh would have challenged the validity of the transcript.

621. Individual A confirmed on cross-examination that she did not witness Mr. Parikh making comments about Individual D's body, nor did she witness Mr. Parikh inviting Individual D to go to the bar with him after work. Individual A did not witness Mr. Parikh suggesting to Individual D that it's okay to cheat on a wife. Individual A's only knowledge of what happened between Mr. Parikh and Individual D came from Individual D herself. In other words, Individual A was only able to provide the Hearing Tribunal with hearsay information.
622. In short, the only evidence available to the Hearing Tribunal to sustain the charges in Allegation 5 is hearsay evidence. The Hearing Tribunal finds that hearsay evidence is not sufficient to sustain Allegation 5 and the Complaints Director has not met his burden in establishing Allegation 5. The Hearing Tribunal finds that it would be fundamentally unfair to rely on evidence that Mr. Parikh had no opportunity to test through cross-examination.
623. Allegation 5 has not been made out.

7. Allegation 6

624. Allegation 6 alleges that Mr. Parikh repeatedly consumed alcohol on the Pharmacy premises, including when the Pharmacy was open to patients, and he was the pharmacist in charge.
625. The evidence is clear that the Pharmacy hours were as follows: 10:00 a.m. to 6:00 p.m. Monday to Friday and 10:00 a.m. to 1:00 p.m. on Saturdays. The Pharmacy was closed on Sundays. Mr. Parikh was always the pharmacist in charge at the Pharmacy, except on Wednesdays and Saturdays as these were the days that his wife, also a pharmacist, worked.
626. Individual A testified that Mr. Parikh usually started to drink around 5:00 pm each night before the Pharmacy closed. Individual A stated that Mr. Parikh usually drank vodka or beer. Individual A further testified that she has never seen Mr. Parikh drinking tea with lemon at the Pharmacy after 5 p.m.; she stated that they did not keep tea at the Pharmacy but there were "copious amounts" of vodka. Individual A explained that Mr. Parikh would pour orange juice and vodka in a cup to disguise it and would at times be sloppy when he was providing care to patients of the Pharmacy. Individual A's shifts would generally go until 6:00 p.m.
627. Individual C stated that there is a kitchen in the back of the Pharmacy and Mr. Parikh would make his supper there and he would have friends come in and drink with him. She did not know specifically what they drank but testified that there was wine in the back and beer in the fridge. There were also vodka bottles. Individual C stated that Mr. Parikh and his friends would drink around 4 or 5 in the afternoon, but the Pharmacy did not close until 6.

628. Individual C did not notice Mr. Parikh drinking tea with lemon after 5 in the Pharmacy. She felt that he maybe drank it in the morning but not after 5. She thought it was hot water with lemon not tea. She stated that she had observed Mr. Parikh pour alcohol into a coffee cup which he drank in the Pharmacy after 5 p.m. Individual C's shifts usually ended at 5 p.m. and she testified that she only stayed past 5 p.m. if she had to which was rare.
629. [REDACTED] never observed anyone drinking at the Pharmacy. [REDACTED] knew there was beer in the fridge sometimes but never saw anyone drinking alcohol in the Pharmacy. [REDACTED] worked in both the dispensary and the front store, but the evidence is not clear in terms of when her shifts generally ended. [REDACTED] testified that she never saw Mr. Parikh drinking alcohol at the Pharmacy. While [REDACTED] shifts went until 6:00 p.m. and therefore she could have observed whether Mr. Parikh was drinking alcohol at the Pharmacy in the late afternoon, [REDACTED] worked in the front store and therefore may have had less opportunity to observe whether Mr. Parikh was drinking in the back kitchen area. Most likely, [REDACTED] would have only had the chance to observe Mr. Parikh drinking if he was drinking in the front store area.
630. [REDACTED] did not provide any evidence that touched on the consumption of alcohol in the Pharmacy. However, the Hearing Tribunal notes that after 2013, [REDACTED] was only working at the Pharmacy around a day and a half per month doing month end billing, although she would also attend the Pharmacy around 3 times per week for personal matters. However, [REDACTED] did not testify to the time of day at which she usually attended at the Pharmacy. To this extent, C.B. would not likely have had much opportunity to observe whether Mr. Parikh drank alcohol in the Pharmacy in the late afternoon while the Pharmacy was still open to patients.
631. For his part, Mr. Parikh denied drinking at the Pharmacy during opening hours. However, he acknowledged cooking supper and drinking with friends at the Pharmacy in the evenings after the Pharmacy was closed. During the day, Mr. Parikh would drink warm water with lemon. On cross-examination, he agreed that he kept vodka and beer in the kitchen in the Pharmacy as well as Hutterite wine, but he did not drink the wine. Mr. Parikh further testified that around 5:00 or 5:30 p.m. Individual A would encourage him to start drinking. He would tell her that he wanted to wait for her husband, but she was insistent he start early. He stated that he now realizes that she wanted him to be in a situation where she could make up a story about him.
632. The evidence is undisputed that vodka, beer and wine were kept on the Pharmacy premises. It is less clear, however, when Mr. Parikh drank alcohol at the Pharmacy. Individual A testified that Mr. Parikh drank alcohol at the Pharmacy each night beginning at 5:00 p.m. As Individual A's shift went until 6:00 p.m., she would have been in a position to observe any drinking taking place between 5:00 and 6:00 p.m. Individual C's evidence was that he would start drinking around 4:00 or 5:00 p.m. As Individual C's shift went until 5:00 p.m., she would have been in a position to observe any drinking taking place between 4:00 and 5:00 p.m. It is noted that Individual A and Individual C differed in their evidence as to when Mr. Parikh would start drinking. Individual A stated that it was at 5:00 p.m. every night and Individual C testified that Mr. Parikh would start drinking at 4:00 p.m. or 5:00 p.m.

633. However, as pointed out by the Complaints Director, there is one instance of Mr. Parikh drinking alcohol that should be carefully scrutinized. This occurred in October 2019, according to Mr. Parikh. He testified that Individual A insisted he drink alcohol in the Pharmacy after 5pm in October 2019. He also suggested that on the day he supposedly fell into Individual A in the kitchen, it was because around 6:15 pm, he lost his balance and had maybe “had more drink, which [he was] not supposed to have” and then needed to use the bathroom.
634. The Hearing Tribunal agrees that it is unlikely that Mr. Parikh would have been drinking a non-alcohol beverage that he was “not supposed to have” or that if he had only started drinking after the Pharmacy closed at 6 pm, he would have lost his balance or needed to use the washroom because of the drinks he had had, within a 15-minute period. In this instance, the Hearing Tribunal finds that it is more likely than not that Mr. Parikh had been consuming some of the alcohol he kept in the kitchen before the Pharmacy was closed to the public.
635. However, the Hearing Tribunal acknowledges that the allegation is that Mr. Parikh “repeatedly” consumed alcohol on the Pharmacy premises, including when the Pharmacy was open to patients, and he was the pharmacist in charge. Here, the Hearing Tribunal notes that both Individual A and C observed Mr. Parikh consuming alcohol in the Pharmacy while it was open to the public on more than one occasion. While neither [REDACTED] nor [REDACTED] observed Mr. Parikh drinking alcohol, it is not clear that they were working in areas of the Pharmacy where they could have readily observed that behavior.
636. Further, Mr. Parikh denied drinking alcohol on the Pharmacy premises, including when the Pharmacy was open to patients, and he was the pharmacist in charge. However, the Hearing Tribunal has found that he did drink in the pharmacy on at least one occasion while the Pharmacy was open to patients and this finding undercuts the force of Mr. Parikh’s blanket denial.
637. Further, the Hearing Tribunal notes that the evidence, including the evidence of Mr. Parikh, demonstrates that Mr. Parikh drank regularly at the Pharmacy. Mr. Parikh’s drinking at the Pharmacy does not appear to be connected to only special events or holiday parties, for example. Accordingly, it is plausible, given that there was at least occasion where Mr. Parikh was drinking at the Pharmacy during opening hours, that there were other occasions where he likewise drank at the Pharmacy during opening hours. The Hearing Tribunal also notes here Mr. Parikh’s December 19, 2019 text where he stated that he was “drunk all the time”.
638. On balance, the Hearing Tribunal finds that it is more likely than not that Mr. Parikh repeatedly consumed alcohol on the Pharmacy premises, including when the Pharmacy was open to patients, and he was the pharmacist in charge.
639. The Hearing Tribunal finds that drinking alcohol in the Pharmacy while it is open to members of the public and while Mr. Parikh was the pharmacist in charge amounts to unprofessional conduct. Principle 11 of the ACP’s Code of Ethics requires members to take responsibility for themselves, including under Principle 11(5), a requirement not to misuse or abuse substances.

640. Further, this conduct amounts to unprofessional conduct under sections 1(1)(pp)(ii) and 1(1)(pp)(xii) of the HPA because it contravenes the Code of Ethics and is harmful to the integrity of the profession. It is also misconduct under the PDA because it contravenes the Standards for the Operation of Licensed Pharmacies and therefore contravenes the PDA (section 1(1)(p)(i)), is detrimental to the public interest (section 1(1)(p)(ii)) and harms the integrity of the profession of pharmacy (section 1(1)(p)(ix)).
641. As stated by the Complaints Director, as a pharmacist, Mr. Parikh is an entrusted health care provider who regularly provided advice and prepared and dispensed drugs to his patients. There is no leeway for pharmacists to be under the influence of substances, including alcohol, while providing professional services. It is also inappropriate for a pharmacist to be drinking in the Pharmacy while the Pharmacy is open to the public, and when employees are continuing to provide services. This behaviour decreases the public's trust in the profession and undermines its integrity. It also creates potential for patient harm if professional services are provided by a pharmacist under the influence of substances.
642. Similarly, as a licensee, Mr. Parikh was responsible for the Pharmacy's operations and in accordance with Standard 2.1 of the Standards for the Operation of Licensed Pharmacies was prohibited from practicing under any condition that compromised his professional independence, judgment, or integrity. It was thus unacceptable conduct for him to drink or practice while supervising employees or providing professional or pharmacy services to the public.
643. Allegation 6 has been made out by the Complaints Director.

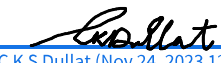
VI. PENALTY PHASE

644. Allegations 1(a), 1(b), 1(c), 2(a), 2(b), 3(a), 3(b), 4(b) and 6 have been proven by the Complaints Director.
645. Allegations 4(a), 4(c) and 5 have not been proven.
646. As a result of the Hearing Tribunal's findings of unprofessional conduct against Mr. Parikh with respect to Allegations 1(a), 1(b), 1(c), 2(a), 2(b), 3(a), 3(b), 4(b) and 6, the Hearing Tribunal will need to determine what orders for penalty it will make pursuant to section 82 of the HPA.
647. The Hearing Tribunal would prefer to receive written submissions on penalty from the parties. However, the Hearing Tribunal invites the parties to advise if there are any concerns with proceeding with written submissions on penalty. The Hearing Tribunal requests that the parties discuss the timing of providing the submissions on penalty to the Hearing Tribunal and to advise the Hearings Director accordingly. If the parties are unable to agree on timing, the Hearing Tribunal will make further directions in this regard.
648. Section 81.1(1) of the *Health Professions Act* provides that if a Hearing Tribunal decides that the conduct of an investigated person constitutes unprofessional conduct based in whole or in part on sexual abuse, the Hearing Tribunal must immediately order the suspension of

the investigated person's practice permit until an order is made under section 82. The Hearing Tribunal so orders.

649. Section 81.1 (2) of the *Health Professions Act* provides that if a Hearing Tribunal decides that the conduct of an investigated person constitutes sexual abuse or sexual misconduct, before making an order under section 82, the Hearing Tribunal must provide the patient with an opportunity to present any written or oral statement describing the impact the sexual abuse or sexual misconduct has had on the patient. Given the timing of the sexual abuse and sexual misconduct amendments to the *Health Professions Act* and the Hearing Tribunals findings of sexual abuse with respect to Individual A, the Hearing Tribunal asks that the Complaints Director contact Individual A to provide her with the opportunity to make a written statement in accordance with section 81.1(2)). If Individual A elects to provide a written statement, a copy should be provided to the Hearing Tribunal, the Complaints Director, and Mr. Parikh.
650. While the *Health Professions Act* does not require Individual B and C to be provided an opportunity to provide a witness impact statement, the Hearing Tribunal is of the view that it would also like to consider any comments by Individuals B and C as part of the sanction process. Therefore, the Hearing Tribunal also asks the Complaints Director to inquire of Individuals B and C if they wish to provide a victim impact statement in writing that would be shared with the Hearing Tribunal, the Complaints Director and Mr. Parikh. They should be given the opportunity to do so provided it does not cause further delay in the proceedings.

Signed on behalf of the Hearing Tribunal by the Chair on November 24, 2023.

Per: 
C K S Dullat (Nov 24, 2023 12:21 MST)
Kamal Dullat