

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 CONCERNING  
SANCTIONS**

**CLOSED HEARING**

April 4, 2024

## **INTRODUCTION**

- [1] The hearing tribunal comprised of Mr. Kamal Dullat, Chair and Regulated Member; Ms. Mary Gunther, Regulated Member; Ms. Pat Matusko, Public Member and Mr. David Rolfe, Public Member held a hearing into the conduct of Mr. Ankit Parikh pursuant to the *Health Professions Act*, RSA 2000, c. H-7 ("*Health Professions Act*").
- [2] On November 24, 2023, the hearing tribunal made findings of unprofessional conduct concerning Mr. Parikh ("Findings Decision"). The hearing tribunal found that while he was a registered pharmacist and the licensee of [REDACTED] Pharmacy, Mr. Parikh committed unprofessional conduct in that he:
1. Engaged in sexual abuse of his employee and patient, Individual A, including when he:
    - (a) used his body to block Individual A against the fridge;
    - (b) threatened to rape Individual A if she didn't have sexual intercourse with him;
    - (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 his employee and patient, Individual A, including when he:
    - (a) approached Individual A and told her he had just brushed his teeth and wanted a kiss;
    - (b) told Individual A that he masturbated to the thought of her.
  3. Engaged in sexual abuse of his employee and patient, Individual B, between approximately 2015 and 2016, when he:
    - (a) asked Individual B to perform oral sex on him 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 his duties as a licensee when he caused his employee and patient, Individual C, to feel uncomfortable, including when he:

...

    - (b) repeatedly stared at the nametag on Individual C's chest such that she stopped wearing a nametag;

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  6. Repeatedly consumed alcohol on the Pharmacy premises, including when the Pharmacy was open to patients and he was the pharmacist in charge.

- [3] The Findings Decision imposed an immediate suspension of Mr. Parikh's practice permit pursuant to section 81.1(1) of the *Health Professions Act* and requested additional submissions from the parties on penalties pursuant to section 82 of the *Health Professions Act*.
- [4] The hearing tribunal received submissions on penalties on behalf of the Complaints Director dated December 22, 2023, submissions on behalf of Mr. Parikh dated January 23, 2024, and reply submissions on behalf of the Complaints Director dated January 30, 2024. The hearing tribunal also received impact statements from Individuals A and C.
- [5] The hearing tribunal met to consider the additional submissions and impact statements on March 4, 2024. Mr. Gregory Sim of Field Law acted as independent legal counsel to the hearing tribunal for this penalties phase of the hearing.

### **SUBMISSIONS of the COMPLAINTS DIRECTOR**

- [6] The Complaints Director reviewed the hearing tribunal's authority to order penalties in section 82 of the *Health Professions Act* and described the 2019 amendments that mandate an order of cancellation for findings based in whole or in part on sexual abuse.
- [7] The Complaints Director summarized the purpose of discipline proceedings and penalties: the protection of the public, maintaining the integrity of the profession, fairness to the member, and deterrence of the member and of the whole profession. The Complaints Director then discussed factors relevant to the determination of appropriate penalty orders.
- [8] *Nature and gravity of the proven allegations:* The Complaints Director submitted that Mr. Parikh's proven unprofessional conduct was extremely serious. Mr. Parikh was found to have breached the College's Standards of Practice: Sexual abuse and sexual misconduct, the *Health Professions Act*, the *Pharmacy and Drug Act*, RSA 2000, c. P-13 ("*Pharmacy and Drug Act*"), the Code of Ethics and the Standards of Practice for Pharmacists and Pharmacy Technicians and the Standards for the Operation of Licensed Pharmacies. The hearing tribunal found that the sexual relationships between Mr. Parikh and Individual A and between him and Individual B were non-consensual and that his conduct was egregious and unprofessional, particularly given his position as the owner and operator of the pharmacy and his position of power. Mr. Parikh was also found to have failed to respect the boundaries of a professional relationship with Individual C and to have been under the influence of alcohol while providing professional services.
- [9] *Mr. Parikh's age and experience:* The Complaints Director submitted that he had been registered as a clinical pharmacist in Alberta since 2005. He was also a pharmacy owner and operator in a position of greater authority and responsibility. His conduct could not be explained by a lack of experience.
- [10] *Prior history of complaints of convictions:* the Complaints Director noted that Mr. Parikh had no history of prior complaints to the College.

- [11] *Age and condition of the affected patients:* The Complaints Director submitted that Individual A had been employed at the pharmacy from 2009 when the unprofessional conduct occurred. She was also a patient of Mr. Parikh's and in a vulnerable position. Individual B had also been employed at the pharmacy since 2009. At the time of Mr. Parikh's proven unprofessional conduct, she was 25 years old, a single-mother, vulnerable, and a patient of Mr. Parikh's. Individual C was an adult who was employed at the pharmacy from 2018. She too was a patient of Mr. Parikh's.
- [12] *Number of times the proven unprofessional conduct occurred:* The Complaints Director submitted that Mr. Parikh's conduct was a pattern, repeated with different individuals, over a number of years. He had sexual intercourse with Individual B on multiple occasions between 2015 and 2017 and with Individual A on multiple occasions between October of 2018 and September of 2019. Mr. Parikh repeatedly behaved otherwise inappropriately towards Individuals A and C and consumed alcohol on the pharmacy premises repeatedly while it was open and while he was the pharmacist in charge. The Complaints Director submitted that this was an aggravating factor.
- [13] *Role of Mr. Parikh in acknowledging what occurred:* The Complaints Director noted Mr. Parikh's denial of the allegations and emphasized that he was entitled to defend himself. The Complaints Director submitted that this was not a mitigating or aggravating factor.
- [14] *Other serious financial or other penalties:* The Complaints Director acknowledged that Mr. Parikh's practice permit and his ability to serve as a pharmacy licensee has been suspended since April of 2020, pursuant to section 65 of the *Health Professions Act*. The Hearing Tribunal should take this nearly four-year suspension into account.
- [15] *Impact of Mr. Parikh's conduct on the affected patients:* The hearing tribunal heard testimony at the hearing from Individuals A, B and C and it received impact statements from Individuals A and C. Individual A's impact statement expressed that Mr. Parikh's conduct caused her longstanding harm. She lost who she was for several traumatic years, though she will find her way back. She developed a fear of male colleagues and supervisors. She suffers intrusive thoughts and anxiety attacks. She suffered publicly in her town where news of the allegations was widespread. She lost relationships in the community and the ability to socialize normally. She struggled to secure new long-term employment, resulting in financial strain for her and her family. She mentally missed being there for her family. Individual C's impact statement similarly expressed that she had developed a fear of men like Mr. Parikh that remains with her years later. She said that Mr. Parikh had caused her to be mentally absent from her husband and her children and that she had to take time to realize that she was not the names that Mr. Parikh had called her.
- [16] *The need for deterrence:* The Complaints Director submitted that it is crucial that Mr. Parikh be unable to perpetuate further abuses. The mandatory order cancelling Mr. Parikh's registration and practice permit in section 82(1.1) of the *Health Professions Act* due to the finding of sexual abuse will accomplish the necessary specific deterrence. It is also necessary for the penalty orders to act as a general deterrent and make clear to the

profession and the proprietors and owners of pharmacies that sexual abuse of patients will result in the loss of registration and the loss of such positions.

- [17] *The maintenance of public confidence in the integrity of the pharmacy profession:* The Complaints Director submitted that the public must see appropriate steps taken to sanction Mr. Parikh. Pharmacists found to have engaged in sexual abuse must not be permitted to remain in practice. Pharmacy owners and proprietors who abuse the trust and authority placed in them must not be permitted to retain those positions.
- [18] *The degree to which the proven unprofessional conduct was outside the range of what is permitted:* The Complaints Director submitted that Mr. Parikh's unprofessional conduct was clearly beyond the range such that cancellation is required. An order prohibiting him from serving as owner or proprietor is also necessary.
- [19] *The range of penalties imposed in other, similar cases:* The Complaints Director referred to *Ontario (College of Pharmacists) v. Hanif*, 2012 ONCPDC 9. Mr. Hanif was a registered pharmacist and the pharmacy's designated manager when he engaged in a relationship including sexual contact with an individual who was filling prescriptions at his pharmacy. Outside of the inherent power imbalance between pharmacist and patient, the sexual relationship was otherwise consensual. Ontario's *Regulated Health Professions Act* contained provisions similar to the mandatory cancellation provisions for sexual abuse in the Alberta *Health Professions Act* and Mr. Hanif received a reprimand and revocation of his license.
- [20] The Complaints Director submitted that the hearing tribunal should order:
1. Cancellation of Mr. Parikh's practice permit and registration.
  2. Mr. Parikh shall not be permitted to directly or indirectly own or act as a proprietor for a licensed pharmacy.
  3. Mr. Parikh shall pay a fine of \$5,000 for allegation 6, to be paid on a monthly schedule as directed by the Hearings Director with payment in full within 24 months of the date of receipt of this decision.
  4. Mr. Parikh shall be responsible for payment of 75% of the costs of the investigation and hearing, to be paid on a monthly schedule as directed by the Hearings Director with payment in full within 24 months of the date of receipt of this decision.
- [21] The Complaints Director submitted that cancellation is mandatory in this case due to the hearing tribunal's findings of sexual abuse, pursuant to section 82(1.1)(a) of the *Health Professions Act*. The Complaints Director added that cancellation would also have been warranted globally for the proven unprofessional conduct in Allegations 1, 2, 3 and 4(b).
- [22] The Complaints Director submitted that Mr. Parikh should be prohibited from directly or indirectly owning or acting as a pharmacy proprietor because he abused the trust placed in him. Mr. Parikh's failure to abide by his regulatory obligations as a pharmacist mean he can no longer be trusted to uphold the regulatory obligations of owners and proprietors of

licensed pharmacies in the *Pharmacy and Drug Act*, the College's Standards for the Operation of Licensed Pharmacies and the College's Code of Ethics.

- [23] The Complaints Director submitted that the proposed \$5,000 fine was within the hearing tribunal's jurisdiction to order and appropriate because Mr. Parikh's unprofessional conduct in Allegation 6 was clearly offside the *Health Professions Act* and the *Pharmacy and Drug Act*. His consumption of alcohol on pharmacy premises while the pharmacy was open and while he was the pharmacist in charge warrants this penalty to achieve general deterrence.
- [24] The Complaints Director submitted that the costs of the investigation and hearing up to December 22, 2023, were \$149,833.10. That sum did not include any costs of the submissions on sanctions or the hearing tribunal's costs for the sanctions stage of the hearing, so the total costs could exceed \$160,000. The Complaints Director submitted that the hearing tribunal has the power in section 82(1)(j) of the *Health Professions Act* to direct Mr. Parikh to pay all or a part of the costs.
- [25] The Complaints Director referred to *Jinnah v. Alberta Dental Association and College*, 2022 ABCA 336 in which the Court of Appeal provided guidance for costs orders under the *Health Professions Act*. The *Jinnah* case held that Colleges like the Alberta College of Pharmacy should bear investigation and hearing costs themselves, except where a 'compelling reason' exists for a regulated member to bear some portion of those costs. The Court held that a compelling reason exists in several instances, including 'serious' unprofessional conduct where a regulated member of the College has engaged in the sexual assault of a patient or a marked departure from the standards of expected conduct, or where the professional is a serial offender who has engaged in unprofessional conduct on two or more occasions. In these circumstances, the regulated member must or should have known that their conduct was completely unacceptable, thereby justifying holding the regulated member accountable for all or a substantial portion of the costs.
- [26] Mr. Parikh engaged in serious unprofessional conduct that he must have known, or at least should have known, was completely unacceptable. He engaged in sexual abuse of a patient. His use of alcohol in the pharmacy was also a marked departure from the expected standard of conduct. The Complaints Director referred to *Alsaadi v. Alberta College of Pharmacy*, 2021 ABCA 313 for determining what, if any, portion of the costs Mr. Parikh should be ordered to pay. The *Alsaadi* decision explained that hearing tribunals should first consider whether a costs order is warranted at all. If so, the next step is to determine how to calculate the amount. The *Alsaadi* decision states that hearing tribunals should consider the factors listed in *K.C. v. College of Physical Therapists of Alberta*, 1999 ABCA 253:
1. Degree of success or failure in proving the allegations;
  2. Seriousness of the allegations;
  3. Conduct of the parties;
  4. Reasonableness of the amounts; and
  5. Costs should not be a penalty and they deserve careful scrutiny when the magnitude of a costs award would be a crushing financial blow.

- [27] The Complaints Director submitted that most of the allegations in the Notice of Hearing were proven. The proposal for an order for 75% of the costs reflects that some of the costs related to time spent on allegations 4(a), 4(c) and 5 which were not proven and the College should bear those portions of the costs. The proven unprofessional conduct is serious. Mr. Parikh demonstrated his failure to meet the most fundamental standards of professional and ethical judgment. The overall costs expended to date are reasonable given the magnitude of the proven allegations and there was no evidence that an order for Mr. Parikh to pay 75% of those costs would impose a crushing financial blow. The proposal to apportion the costs over 24 months would assist in making the payment structure reasonable.

### **SUBMISSIONS of MR. PARIKH**

- [28] Mr. Parikh also began his submissions by reviewing the hearing tribunal's powers in section 82 of the *Health Professions Act*, including section 82(1.1). Section 82(1.1) came into effect on April 1, 2019 and compels the hearing tribunal to cancel the practice permit and registration of a regulated member found guilty of unprofessional conduct based in whole or in part on sexual abuse. Mr. Parikh referred to the legal presumption that the Alberta Legislature did not intend section 82(1.1) to be applied retroactively.
- [29] Mr. Parikh agreed with the Complaints Director's list of factors to determine the appropriate sanctions orders, but he identified mitigating factors. He submitted that he is an immigrant with almost two decades of practice in Canada and no prior complaint history. He submitted that the relationship between him and Individuals A, B, and C was primarily an employer – employee relationship rather than a pharmacist – patient relationship. The circumstances that led to the allegations did not entail Individuals A, B, or C approaching Mr. Parikh for pharmacy services. The allegations emerged instead from Mr. Parikh's employer – employee relationships with them. Mr. Parikh submitted that he was charged criminally for the conduct in Allegation 1 but those criminal charges were ultimately dropped by the Crown. He nevertheless incurred considerable financial costs to defend himself against the criminal and regulatory allegations.
- [30] Mr. Parikh submitted that his practice permit and registration should not be cancelled. He submitted that conduct prior to April 1, 2019 could not constitute sexual abuse under the *Health Professions Act* triggering mandatory cancellation. While the hearing tribunal found that Mr. Parikh committed sexual abuse on multiple occasions between October 2018 and September 2019 in allegation 1(c), it does not follow that any of those occasions occurred on or after April 1, 2019. There was no concrete evidence of any singular event of sexual abuse on or after April 1, 2019 so the hearing tribunal could not rely on section 82(1.1) to cancel Mr. Parikh's practice permit and registration.
- [31] Mr. Parikh submitted that section 82 of the *Health Professions Act* does not permit the Hearing Tribunal to ban him from directly or indirectly owning or acting as proprietor for a licensed pharmacy. The hearing tribunal's discretion is limited to sanctions relating to Mr. Parikh's practice as a pharmacist. It does not include sanctions relating to his interest in pharmacies as businesses, so the hearing tribunal does not have the jurisdiction to force him, or his wife, to sell any of their shares in Dream Pharm Inc. Mr. Parikh added that

there is no evidence he is a danger to the public, meaning pharmacy patients. Since his suspension, the pharmacy has operated without incident under his ownership.

- [32] Mr. Parikh agreed with the Complaints Director that a \$5,000 fine with a monthly payment schedule as directed by the Hearings Director is appropriate.
- [33] On the issue of costs, Mr. Parikh also referred to the *Jinnah* decision. He then emphasized his lack of a prior history of complaints and his cooperation with the College's investigation and suggested that based on the mixed results, he should bear 50% of the investigation and hearing costs. Mr. Parikh proposed a monthly payment schedule to be directed by the Hearings Director over a period of 48 months.
- [34] Mr. Parikh also proposed that the Hearing Tribunal could order that he undertake counselling or treatment that it feels is appropriate and suspend his practice permit until April of 2025, by which point he would have been suspended for five years from April 2020.

### **REPLY SUBMISSIONS of the COMPLAINTS DIRECTOR**

- [35] In reply submissions, the Complaints Director submitted that Individuals A, B, and C were found to have been patients of Mr. Parikh in addition to being employees. The proven unprofessional conduct in Allegation 1(c) occurred between October 2018 and at least September 2019. Implicit in the hearing tribunal's findings was that at least some of the sexual activity occurred after April 1, 2019, constituting sexual abuse.
- [36] The Complaints Director clarified that he was not seeking an order with respect to Mr. Parikh's spouse, but that it is necessary to prohibit Mr. Parikh from directly or indirectly acting as a pharmacy owner or proprietor in Alberta. The Complaints Director relied on section 82(1)(l) of the *Health Professions Act* which allows the hearing tribunal to make any order that is considered appropriate for the protection of the public. A prohibition on ownership and proprietorship is warranted to ensure Mr. Parikh can no longer abuse a position of authority as a pharmacy owner or proprietor. It would be illogical to prohibit Mr. Parikh from practicing as a pharmacist yet permit him to own and operate a pharmacy and profit from it while posing an ongoing risk.
- [37] The Complaints Director added that Mr. Parikh has continued to own [REDACTED] Pharmacy while suspended, but he was ordered not to attend at the pharmacy. If he is permitted to directly or indirectly own a licensed pharmacy, then even if his practice permit and registration with the College are cancelled, it would be difficult to protect the public from similar unprofessional conduct in the future.

### **DECISION**

- [38] The hearing tribunal has carefully considered the findings of unprofessional conduct and the submissions of the Complaints Director and Mr. Parikh. The hearing tribunal makes the following order pursuant to section 82 of the *Health Professions Act*:



1. Mr. Parikh's practice permit and registration are cancelled;
2. Mr. Parikh shall pay a fine of \$5,000, which may be paid by monthly installments as directed by the Hearings Director, provided the fine must be paid in full within 24 months of Mr. Parikh's receipt of this decision;
3. Mr. Parikh shall pay 75% of the costs of the investigation and hearing, which may be paid by monthly installments as directed by the Hearings Director, provided the costs must be paid in full within 36 months of Mr. Parikh's receipt of this decision.

## **REASONS FOR DECISION**

### **Mandatory Cancellation**

- [39] The *Health Professions Act* was amended with section 82(1.1) coming into force effective April 1, 2019. Section 82(1.1) provides that if the subject-matter of a hearing relates to a complaint alleging sexual abuse, and the hearing tribunal decides that the conduct of an investigated person constitutes unprofessional conduct based in whole or in part on sexual abuse, then in addition to any order that the hearing tribunal may make under section 82(1), in respect of unprofessional conduct based in whole or in part on sexual abuse, the hearing tribunal must cancel the investigated person's practice permit and registration.
- [40] The hearing tribunal found allegation 1(c) proven and that Mr. Parikh's conduct constituted unprofessional conduct based on sexual abuse. Allegation 1(c) alleged that Mr. Parikh engaged in sexual abuse of Individual A, including when he engaged in sexual intercourse with Individual A in the Pharmacy on multiple occasions between October 2018 and September 2019.
- [41] Mr. Parikh argued that the hearing tribunal made no specific finding of sexual abuse on or after April 1, 2019, so section 82(1.1) of the *Health Professions Act* does not apply. We disagree. In our findings decision, we found that Individual A was both an employee of the Pharmacy and a patient. There was a significant power imbalance between her and Mr. Parikh. She was dependent on Mr. Parikh for her livelihood and for pharmacy services for both her and her family.<sup>1</sup> The power imbalance between Mr. Parikh and Individual A left her 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.<sup>2</sup>
- [42] We found that the sexual activity as described by Individual A occurred "from October 2018 to at least September 2019."<sup>3</sup> We found that this sexual activity involved sexual intercourse and it continued to at least September 2019, meaning that it was continuing to occur after April 1, 2019.<sup>4</sup> As we stated in the findings decision, "A sexual relationship

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<sup>1</sup> Findings Decision, para. 481

<sup>2</sup> Findings Decision, para. 518

<sup>3</sup> Findings Decision, para. 514.

<sup>4</sup> Findings Decision, para. 520

occurring with a patient after April 1, 2019 would automatically amount to sexual abuse as set out in the *Health Professions Act*.”<sup>5</sup> We found that Mr. Parikh’s conduct on or after April 1, 2019 met the definition of sexual abuse in section 1(1)(nn1)(i) of the *Health Professions Act*: sexual intercourse between a regulated member and a patient of that regulated member”.<sup>6</sup> We also found that Mr. Parikh’s conduct breached the College’s Standard of Practice: Sexual abuse and sexual misconduct and its Code of Ethics, the Standards of Practice for Pharmacists and Pharmacy Technicians, the Standards for the Operation of Licensed Pharmacies, the *Pharmacy and Drug Act* and was conduct harmful to the integrity of the profession. It was unprofessional conduct based on sexual abuse. Section 82(1.1) of the *Health Professions Act* mandates that the hearing tribunal order the cancellation of Mr. Parikh’s practice permit and registration with the College.

### **Ownership and Proprietorship**

- [43] The hearing tribunal next considered whether to make an order prohibiting Mr. Parikh from directly or indirectly owning or acting as proprietor for a licensed pharmacy. The Complaints Director submitted that the hearing tribunal’s power to make this order is section 82(1)(l) of the *Health Professions Act*, which allows it to make any order it considers appropriate for the protection of the public. The Complaints Director submitted that if it is mandatory for the hearing tribunal to cancel a member’s practice permit and registration following a finding of sexual abuse, it follows that it is also necessary to prohibit the individual from serving as an owner and proprietor. He submitted that owners and proprietors have obligations under section 11 of the *Pharmacy and Drug Act*, the Standards for the Operation of Licensed Pharmacies and the College’s Code of Ethics. If Mr. Parikh can no longer be trusted to practice pharmacy, he should not be trusted to uphold these obligations.
- [44] The hearing tribunal is unable to agree that it is necessary or appropriate for the protection of the public to make an order prohibiting Mr. Parikh from directly or indirectly owning or acting as a proprietor of a licensed pharmacy.
- [45] The *Pharmacy and Drug Act* section 1(1)(y) defines a “proprietor” as a person who owns, manages, or directs the operation of a facility in which a licensed pharmacy is located and who exercises a significant degree of control over the management and policies of the licensed pharmacy, or the conduct of regulated members of the College who are employed by the pharmacy. Proprietor’s obligations are described in section 11 of the *Pharmacy and Drug Act*. They must maintain an address for notices to the pharmacy, ensure that all required records are created and maintained, and they must refrain from attempting to direct or influence the management or operation of the pharmacy so as to contravene any related legislation.
- [46] The College’s Registrar considers pharmacy license applications and has discretion in section 5.01(1) of the *Pharmacy and Drug Act* to issue licenses. The Registrar “may” issue

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<sup>5</sup> Findings Decision, para. 514.

<sup>6</sup> Findings Decision, para. 528

a license if the Registrar is satisfied that the applicant is a clinical pharmacist, who meets the licensing requirements, who will personally manage, control and supervise the practice of pharmacy in the licensed pharmacy, and who will comply with the *Pharmacy and Drug Act*. This applicant then becomes the pharmacy “licensee”. Section 10 of the *Pharmacy and Drug Act* describes the obligations of licensees. Licensees are responsible to ensure that licensed pharmacies operate in accordance with the *Pharmacy and Drug Act*, to manage, control and supervise the operation of the pharmacy, and to report to the College any proprietor who directs, influences or attempts to direct or influence the management or operation of the pharmacy so as to contravene any related legislation.

- [47] Before issuing a license, the Registrar must also be provided with information about the proposed proprietor and anyone with a significant ownership interest in the pharmacy, or who are likely to exert control or influence over the pharmacy, such as major shareholders, partners, or trustees or the beneficial owners of a trust: *Pharmacy and Drug Regulation*, Alta Reg. 240/2006 (“*Pharmacy and Drug Regulation*”) at s. 3(1)(l.01). The Registrar must be satisfied that the proposed proprietor meets the requirements in the regulations and standards and will act in accordance with the *Pharmacy and Drug Act*. If the Registrar is not satisfied, the Registrar may impose conditions on the license or refuse to issue the license. Section 5 of the *Pharmacy and Drug Regulation* provides that the Registrar may impose conditions for protecting the safety of the public or improving the quality of patient care, including conditions requiring security systems and measures to be installed and the application of human resources in the pharmacy including the use of non-regulated personnel in the pharmacy.
- [48] Mr. Parikh’s registration and practice permit have been cancelled and cancellation for unprofessional conduct based on sexual abuse is permanent: *Health Professions Act*, s. 45(3). He is precluded from seeking reinstatement at any point in the future. Mr. Parikh is therefore precluded from ever acting as a pharmacy licensee in Alberta. Even if Mr. Parikh were to serve as an owner or proprietor of a licensed pharmacy, he would not have unfettered access to the pharmacy and its staff. A licensed pharmacy would have a separate licensee who would be responsible to manage, control and supervise the operations of the pharmacy. The licensee would have a legal obligation to report to the College any attempt by Mr. Parikh to direct or influence the management or operation of the pharmacy so as to contravene related legislation. The College’s Registrar can consider whether to issue a pharmacy license with Mr. Parikh as an owner or proprietor and impose conditions on Mr. Parikh’s access to the pharmacy and its staff, or potentially refuse the license application.

### **Fine**

- [49] The Complaints Director and Mr. Parikh agreed that a \$5,000 fine payable in monthly installments directed by the Hearings Director to be paid within 24 months is appropriate for the finding of unprofessional conduct in Allegation 6. The Hearing Tribunal accepts that a \$5,000 fine is an appropriate penalty for the proven conduct in Allegation 6. The fine will serve as a reminder to the profession that being under the influence of substances, including alcohol, while providing professional services or while in the pharmacy that is open to the public is unprofessional and carries a risk of harm.

## Costs

- [50] The Complaints Director estimated the investigation and hearing costs to the date of his written submissions on sanctions at \$149,833.10 and projected that total investigation and hearing costs could exceed \$160,000. The Complaints Director and Mr. Parikh both propose that he should pay a significant portion of the costs. The Complaints Director submitted that Mr. Parikh should be ordered to pay 75% of the costs. Mr. Parikh argues that he should pay 50%.
- [51] In *Jinnah v. Alberta Dental Association and College*, 2022 ABCA 336, the Alberta Court of Appeal held that a significant portion of investigation and hearing costs should not be imposed on a registrant found to have committed unprofessional conduct, unless a “compelling reason” exists. The Court held that a compelling reason exists in scenarios including where the registrant has engaged in serious unprofessional conduct, such as sexual assault on a patient, and where the registrant who is a serial offender engages in unprofessional conduct on two or more occasions. The Court held that a registrant guilty of serious unprofessional conduct must have known that their behaviour is completely unacceptable and constitutes unprofessional conduct. A registrant guilty of two or more acts of serious unprofessional conduct could justifiably be ordered to indemnify the College for a substantial portion or all of its expenses.
- [52] In our Findings Decision we concluded that Mr. Parikh’s conduct was egregious. He had a non-consensual sexual relationship with Individual A and he committed sexual abuse. Mr. Parikh’s conduct towards Individual B predated the amendments to the *Health Professions Act* adding sexual abuse and sexual misconduct, but it was no less egregious. Mr. Parikh’s sexual relationship with Individual B was also non-consensual. He took advantage of the significant power imbalance between them and her challenging socioeconomic circumstances for his own sexual gratification.<sup>7</sup> Mr. Parikh’s conduct towards Individual C was also serious, although it did not reach the same level of severity as his conduct towards Individuals A and B. Mr. Parikh’s conduct towards Individual C was part of a pattern of unprofessional conduct towards female pharmacy employees. The seriousness of Mr. Parikh’s pattern of unprofessional conduct is evident from the similarities in the impact statements from Individuals A and C. Overall, Mr. Parikh’s conduct was on the most serious end of the spectrum of unprofessional conduct. This is a compelling reason to order that Mr. Parikh pay a significant amount of the total investigation and hearing costs.
- [53] The hearing tribunal next considered that of the 6 allegations in the Notice of Hearing, only Allegation 5 was dismissed in its entirety. All of the particulars in Allegations 1, 2, 3 and 6 were fully proven and the particulars in Allegation 4 were partially proven. There were four days of hearings that led to the Findings Decision and it was lengthy. The Complaints Director’s advice that costs to date are \$149,833 and may reach over \$160,000 when the hearing is completed is substantial, but it is not unreasonable for a highly complex 4-day hearing. There was no evidence of Mr. Parikh’s financial circumstances from which to

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<sup>7</sup> Findings Decision, para. 578

infer whether an order for him to pay a portion of the costs would be a 'crushing financial blow'.

- [54] It is appropriate for Mr. Parikh to bear a significant portion of the investigation and hearing costs for the very serious findings of unprofessional conduct made against him. It is appropriate for the College and the profession as a whole to bear some of the costs, particularly since Allegations 4(a) and (c) and 5 were not proven and since Mr. Parikh properly cooperated with the investigation and hearing process. The hearing tribunal considered the Complaints Director and Mr. Parikh's relative success on the allegations, the seriousness of the allegations, the parties' conduct and the reasonableness of the amounts involved. The tribunal concluded that the proposed order for Mr. Parikh to pay 75% of the investigation and hearing costs is proportionate and appropriate. This is not a case in which Mr. Parikh and the College should share the costs equally.
- [55] Mr. Parikh proposed that instead of cancellation, the suspension of his practice permit could be extended to April 2025, by which point he would have been suspended for 5 years, and that he undertakes counselling or a treatment program that the hearing tribunal deems appropriate. The hearing tribunal considered these options, but the order for cancellation is mandatory due to section 82(1.1) of the *Health Professions Act*. Cancellation is also permanent due to section 45(3) of the *Health Professions Act*, so there is no prospect of Mr. Parikh returning to pharmacy practice. The hearing tribunal believes that Mr. Parikh could benefit from counselling or a treatment program, but he may pursue those voluntarily.

### **CONCLUSION**

- [56] The hearing tribunal makes the following orders:
1. Mr. Parikh's practice permit and registration are hereby cancelled.
  2. Mr. Parikh shall pay a fine of \$5,000, which may be paid by monthly installments as directed by the Hearings Director, provided the fine must be paid in full within 24 months of Mr. Parikh's receipt of this decision.
  3. Mr. Parikh shall pay 75% of the costs of the investigation and hearing, which may be paid by monthly installments as directed by the Hearings Director, provided the costs must be paid in full within 36 months of Mr. Parikh's receipt of this decision.

Signed on behalf of the Hearing Tribunal by the Chair on April 4, 2024.

Per:   
Kamal Dullat (Apr 4, 2024 17:15 MDT)  
Kamal Dullat