

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE *HEALTH PROFESSIONS ACT*

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

Mehrnoush Sohrabirad

Registration number: 6814

DECISION OF THE APPEAL PANEL OF COUNCIL

August 22, 2023

I. INTRODUCTION

- [1] A Panel of Council (the “Panel”) of the Alberta College of Pharmacy (“ACP”) convened to hear an appeal on May 1, 2023, via zoom videoconference. The appeal was convened pursuant to sections 87 to 89 of the *Health Professions Act*, R.S.A., 2000, c. H-7 (the “HPA”).

The members of the Panel were:

Peter Macek, pharmacist, Chair
James Frobb, pharmacist
Carmen Wyton, Public Member
Christine Maligec, Public Member

Also in attendance were:

James Krempien, Complaints Director
David Jardine, legal counsel for the Complaints Director
Mehrnoush Sohrabirad, Investigated Person
Simon Renouf, legal counsel for Ms. Sohrabirad
Julie Gagnon, independent legal counsel to the Panel
Margaret Morley, Hearings Director and Hearing Facilitator

II. PRELIMINARY MATTERS

- [2] The parties confirmed there were no objections to the composition of the Panel present to hear the appeal or the jurisdiction of the Panel to proceed with the appeal.

- [3] The following documents were entered as exhibits:

Exhibit 1 Notice of Appeal of Ms. Sohrabirad dated January 25, 2023

Exhibit 2 Notice of Cross-Appeal of the Complaints Director dated February 15, 2023

Exhibit 3 Record of Proceedings, consisting of:

Transcript of hearing held February 1-3, 2022

Hearing Tribunal Decision on Merit dated June 27, 2022

Hearing Tribunal Decision on Sanction dated January 18, 2023

Exhibit Book containing Exhibits 1 to 5 and post-hearing communication

Exhibit 1 – Exhibit Book of Complaints Director from
February 1-3, 2022 hearing

Exhibit 2 – Exhibit Book of Ms. Sohrabirad Vol. 1 from
February 1-3, 2022 hearing

Exhibit 3 – Exhibit Book of Ms. Sohrabirad Vol. 2 from
February 1-3, 2022 hearing

Exhibit 4 – Definition of a personal service

Exhibit 5 – Ms. Sohrabirad 11-page word document titled
ACP

Post-hearing communication to Hearing Tribunal

Government Organization Act

Personal Services Regulation

Letter from Ms. Chisholm to the Hearing Tribunal re new information
dated April 14, 2022

Exhibit 4 Hearing Tribunal Merits Decision dated June 27, 2022

Exhibit 5 Hearing Tribunal Sanction Decision dated January 18, 2023

[4] The following written submissions and case authorities were reviewed and considered by
the Panel:

Written Submissions of Ms. Sohrabirad on the appeal dated April 11, 2023;

Written Submissions of the Complaints Director on the cross-appeal dated April
12, 2023;

Written Submissions of the Complaints Director on the response to the appeal
dated April 24, 2023;

Written Submissions of Ms. Sohrabirad on the response to the cross-appeal dated
April 24, 2023;

Additional case authorities referred to at the appeal: *Callaway v Office of the
Election Commissioner*, 2023 ABKB 233;

Correspondence dated June 2, 2023 from counsel for Ms. Sohrabirad responding
to questions from the Panel;

Correspondence dated June 2, 2023 from counsel for the Complaints Director
responding to questions from the Panel.

III. BACKGROUND

[5] Ms. Sohrabirad operated a medical spa business called Rx to Beauty. Information was
provided to the Complaints Director about Rx to Beauty and the Complaints Director

treated the information as a complaint under section 56 of the HPA. The Complaints Director directed an investigation and the matter was eventually referred to a hearing.

[6] The Hearing Tribunal held a hearing into the conduct of Ms. Sohrabirad on February 1 to 3, 2022. The Hearing Tribunal considered two allegations made against Ms. Sohrabirad as follows:

IT IS ALLEGED THAT while you were a registered Alberta pharmacist and providing professional services through your company Rx to Beauty, which was established in 2017 and is not a licensed pharmacy, you:

1. Failed to understand or comply with your obligations to uphold the Standards of Practice of Pharmacists and Pharmacy Technicians and the Alberta College of Pharmacy's Code of Ethics when you provided professional services outside of a licensed pharmacy, the particulars of which include when you:
 - a. Provided services a pharmacist is not authorized to provide when you provided patients with Platelet-Rich Plasma (PRP) injections, including the drawing of venous blood for that purpose.
 - b. Sold and administered Botox, a Schedule 1 medication, to patients of Rx to Beauty even though:
 - i. the medication was not prescribed,
 - ii. the medication was not stored in a pharmacy,
 - iii. the medication was not dispensed from a pharmacy,
 - iv. patient records were not stored at a pharmacy or another approved offsite location,
 - v. patient records were not easily accessible to other health care providers, and
 - vi. you did not collaborate with other health care providers.
 - c. Relied on your registration as a pharmacist with Advanced Prescribing Authority to act as the Medical Director of Rx to Beauty when you knew that pharmacists cannot purchase or dispense the brand of Botox sold to medical spas.
 - d. Offered inducements for the provision of professional services and the sale of Botox, a Schedule 1 medication, on the Instagram page for @rx_to_beauty, including but not limited to:
 - i. "limited time offer mini lips (1/2 syringe) \$250, Botox/disport \$8 per unit, any full syringe \$500 (including cheeks, chin, jawlines, non-

surgical nose job) PRP \$500, medical grade micro needling \$400, vampire facial \$800, hair restoration \$500 and more, To book your appointment call or message @ (780) 934-4359 tag 10 friends to get a chance to win 10 units Botox/dysport”, and

ii. “Black Friday sale! \$250 1/2 syringe Restylane any kind of injections, \$490 any full syringe injection, \$7.50 per unit Botox/Dysport Black Friday weekend only! Message or call 780-934-4359 to book your appointment.”

2. Advertised yourself in a manner that was misleading to the public, the particulars of which include when you:

- a. Relied on your registration as a pharmacist with Advanced Prescribing Authority when you advertised on the @rx_to_beauty Instagram page your ability to administer medications by injection as part of performing cosmetic services that do not fall within the practice of pharmacy or are provided contrary to the Standards of Practice, and
- b. Advertised your registration as a pharmacist with Advanced Prescribing Authority in conjunction with the operation of the company Rx to Beauty, which, when read together, incorrectly suggests a connection between the practice of pharmacy and the cosmetic services you provide through Rx to Beauty.

IT IS ALLEGED THAT your conduct in these matters:

- a. Breached your statutory and regulatory obligations to the Alberta College of Pharmacy as an Alberta pharmacist,
- b. Undermined the integrity of the profession,
- c. Decreased the public’s trust in the profession,
- d. Created the potential for patient harm, and

Failed to exercise the professional and ethical judgment expected and required of an Alberta pharmacist.

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

- Standards 1, 17 and 18 and Sub-sections 1.1, 1.2, 1.4, 1.7, 1.18, 17.4, 18.2(b) and 18.7(b) of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Section 102 and section 3 of Schedule 19 of the *Health Professions Act*;

- Principles 1(1,2,13,14 and 15), 10(1) and 12(2 and 6) of the Alberta College of Pharmacy’s Code of Ethics; and
- Sections 3 and 31(2)(a) of the *Pharmacy and Drug Act*.

and that your conduct set out above and the breach of some or all of these provisions constitutes unprofessional conduct pursuant to the provisions of sections 1(1)(pp)(i), 1(1)(pp)(ii), 1(1)(pp)(iii) and 1(1)(pp)(xii) of the *Health Professions Act* and sections 1(1)(p)(i), 1(1)(p)(ii) and 1(1)(p)(ix) of the *Pharmacy and Drug Act*.

[7] In the Decision of the Hearing Tribunal on Merits dated June 27, 2022 (the “Merits Decision”), the Hearing Tribunal found Allegations 1(b), (d) and 2(b) were proven and constituted unprofessional conduct. The Hearing Tribunal dismissed Allegations 1(a), 1(c) and 2(a).

[8] In the Decision of the Hearing Tribunal on Sanctions dated January 18, 2023 (the “Sanctions Decision”), the Hearing Tribunal ordered:

1. Ms. Sohrabirad’s practice permit shall be suspended for 2 months to be served on dates acceptable to the Complaints Director and completed within 3 months from the date that Ms. Sohrabirad receives this written decision.
2. Ms. Sohrabirad shall pay a fine of \$2,500 for Allegation 1(b), \$2,500 for Allegation 1(d) and \$1,500 for Allegation 2(b) for a cumulative fine of \$6,500 to be paid within 90 days of receiving this written decision.
3. Ms. Sohrabirad shall transfer any drugs or patient records she is currently storing outside of a pharmacy to a pharmacy within 30 days of receiving this written decision. For the purposes of this order, “drugs” means “drug” as defined in the *Pharmacy and Drug Act* and “patient records” means “patient records” under the College’s Standards of Practice. Ms. Sohrabirad shall notify all individuals affected by the transfer of their patient records as to where their records shall be maintained within 30 days from the date she receives this written decision.
4. Ms. Sohrabirad’s Additional Prescribing Authorization (“APA”) shall be revoked effective as of the date of this written decision and Ms. Sohrabirad shall be prohibited from re-applying for her APA for a period of one year from the date she receives this written decision.
5. Ms. Sohrabirad shall not be permitted to serve as the owner, proprietor or licensee of a pharmacy for 1 year from the date she receives the Hearing Tribunal’s written decision.
6. Ms. Sohrabirad must complete the College’s Licensee Education Program at her cost within 1 year from the date she receives the Hearing Tribunal’s written decision.

7. Ms. Sohrabirad shall provide a copy of the Hearing Tribunal's written decision in this matter to any pharmacy employer or licensee to whom she applies to work or works as a pharmacist for 3 years, commencing on the date she receives the Hearing Tribunal's written decision.
8. Ms. Sohrabirad shall pay 25% of the costs of the investigation and hearing, in monthly payments acceptable to the Hearings Director, with payment in full to be made within 36 months of the date Ms. Sohrabirad.

IV. ISSUES APPEALED

[9] A Notice of Appeal was issued by counsel for Ms. Sohrabirad on January 25, 2023 stating:

TAKE NOTICE that Ms. Mehrnoush Sohrabirad does hereby appeal the Merits Decision (January 27, 2022) and the Sanctions Decision (January 18, 2023) of the Hearing Tribunal of the Alberta College of Pharmacy in accordance with section 87 of the *Health Professions Act*, RSA 2000, c H-7.

THE REASONS FOR APPEAL (MERITS) ARE:

1. The Hearing Tribunal made unreasonable errors in law in interpreting the statutes relevant to prescriptions.
2. Such other grounds as counsel may advise.

THE REASONS FOR APPEAL (SANCTION) ARE:

1. The sanctions imposed by the Hearing Tribunal were disproportionate to the nature and gravity of the proven allegations.
2. The Hearing Tribunal failed to take into account mitigating factors.
3. The sanctions imposed by the Hearing Tribunal were unduly harsh.
4. The sanctions imposed by the Hearing Tribunal were inconsistent with precedent, and were unreasonable.
5. Such other grounds as counsel may advise.

[10] A Notice of Cross-Appeal was issued by counsel for the Complaints Director on February 15, 2023 stating:

TAKE NOTICE that the Complaints Director does hereby appeal the Merits Decision (January 27, 2022) and the Sanctions Decision (January 18, 2023) of the Hearing Tribunal of the Alberta College of Pharmacy in accordance with section 87 of the *Health Professions Act*, RSA 2000, c H-7 on the grounds that:

1. In the Merits Decision, the Hearing Tribunal erred in law or principle when it failed to find that Ms. Sohrabirad contravened the Standards of Practice for

Pharmacists and Pharmacy Technicians and the Alberta College of Pharmacy's Code of Ethics in relation to Allegation 1(a);

2. In the Merits Decision, the Hearing Tribunal erred in law or principle when it failed to find that Ms. Sohrabirad advertised herself in a manner that was misleading to the public in relation to Allegation 2(a);
 3. In respect to the Hearing Tribunal's findings regarding the provision of PRP by a pharmacist, the Merits Decision is not internally consistent and at times contradictory;
 4. In the Sanctions Decision, the Hearing Tribunal failed to provide a clear or justifiable reason for ordering fines lower than those proposed by the Complaints Director.
- [11] Ms. Sohrabirad appeals the findings of unprofessional conduct on Allegations 1(b), (d) and 2(b). The Complaints Director appeals the findings that Allegation 1(a) and 2(a) were not proven. Neither party appeals the finding that Allegation 1(c) was not proven.
- [12] Ms. Sohrabirad and the Complaints Director both appeal the sanctions imposed by the Hearing Tribunal. Ms. Sohrabirad appeals the sanctions as a whole and the Complaints Director appeals the fines ordered by the Hearing Tribunal.

V. SUBMISSIONS

APPEAL BY MS. SOHRABIRAD

Submissions on behalf of Ms. Sohrabirad

- [13] Mr. Renouf noted the Panel has broad powers under the HPA. Section 89(5) of the HPA allows the Panel to make any finding that, in its opinion, should have been made by the Hearing Tribunal.

Standard of Review

- [14] Mr. Renouf noted that in *Yee v Chartered Professional Accountants of Alberta*, 2020 ABCA 98 ("Yee"), the Alberta Court of Appeal explained the role of an appeal Panel when it is reviewing the decision of a Hearing Tribunal, as follows:
1. The Panel should remain focused on whether the decision of the tribunal is based on errors of law, errors of principle, or is not reasonably sustainable. The Panel should, however, remain flexible and review the decision under appeal holistically, without a rigid focus on any abstract standard of review;
 2. With respect to decisions on questions of law by the tribunal arising from the HPA, the Panel is equally well positioned to make the necessary findings. Regard should be had to the view of the tribunal, but the Panel is entitled to

independently examine the issue, to promote uniformity in interpretation, and to ensure that proper professional standards are maintained;

3. With respect to matters engaging the expertise of the profession, such as those relating to setting standards of conduct, the Panel is again well-positioned to review the decision under appeal. The Panel is entitled to apply its own expertise and make findings about what constitutes professional misconduct;
4. The Panel is entitled to intervene if it perceives unreasonableness, error of principle, potential injustice, or another sound basis for intervening;
5. The Panel is also well-positioned to review the entire decision and conclusions of the tribunal for reasonableness, to ensure that, considered overall, it properly protects the public and the reputation of the profession;
6. The Panel may also intervene in cases of procedural unfairness, or where there is a reasonable apprehension of bias. Issues of fairness and natural justice are reviewed, having regard to the context, to see whether the appropriate level of "due process" or "fairness" required by the statute or the common law has been granted.

Fairness of the Hearing

- [15] Mr. Renouf submitted that there were concerns with the fairness of the hearing before the Hearing Tribunal. Ms. Sohrabirad was unrepresented by legal counsel at the hearing. Mr. Renouf noted that there are additional fairness obligations owed to a member who is unrepresented. Mr. Renouf referred to *Alsaadi v Alberta College of Pharmacy*, 2021 ABCA 313 (“*Alsaadi*”) for authority that there is a higher standard of fairness owed to an unrepresented member.
- [16] Mr. Renouf raised concerns regarding a letter provided to the Hearing Tribunal by counsel for the Complaints Director following the hearing. The Complaints Director submitted a letter dated April 13, 2022 (the “Post-Hearing Letter”) to the Hearing Tribunal more than two months after the conclusion of the hearing on the allegations. The Post-Hearing Letter indicated that the Deputy Registrar of ACP had been informed by letter from [REDACTED] Public Health Standards and Regulations, Health Protection Branch, Public Health and Compliance Division that Alberta Health considers cosmetic Botox to be a “personal service” pursuant to the Personal Services Regulation.
- [17] Mr. Renouf submitted that the Hearing Tribunal erred in considering the Post-Hearing Letter. Ms. Sohrabirad, who was not represented by legal counsel at the hearing, was not asked if she had any submissions to make with respect to the letter and was not invited to respond which was a breach of fairness and as such, the Hearing Tribunal’s decision is invalid.
- [18] Mr. Renouf also noted that Mr. Krempien played multiple roles in the process: he was the complainant; one of the investigators; he was the decision-maker with respect to whether the complaint should be advanced to a hearing; he was called as an expert witness by

counsel for the Complaints Director; he testified and gave inadmissible evidence with respect to offering an opinion that this was a clear case against Ms. Sohrabirad; he instructed prosecuting counsel; he instructed counsel to file the Post-Hearing Letter; he made submissions on the merits; and finally, he instructed counsel to file the cross-appeal.

[19] Mr. Renouf stated that it was an error to combine those different functions in what was a novel case before the College, in a case that addresses the tension between the College's regulatory sphere and the regulatory sphere of Alberta Health Services created under the *Public Health Act*.

Merits Decision

[20] Ms. Sohrabirad appealed the findings of unprofessional conduct in Allegation 1(b) and (d) and Allegation 2(a).

[21] Mr. Renouf's submitted that the categorization of the administration of Botox as a "personal service" or a "professional service" was a key issue before the Hearing Tribunal. The Personal Services Regulation does not apply to health services, it applies to personal services. Mr. Renouf submitted that the fundamental question was missed by the Hearing Tribunal - why not let Alberta Health Services regulate the provision of personal services? The Alberta College of Pharmacy's jurisdiction is over the regulation of health services.

[22] Mr. Renouf outlined the legislative scheme for the regulation of personal services under the *Public Health Act*, the Personal Services Regulation and the Personal Services Standards. Section 75 in the *Public Health Act* is a paramountcy clause, stating that the *Public Health Act* prevails over any enactment that it conflicts or is inconsistent with.

[23] Mr. Renouf raised concerns that College witnesses (i.e. Mr. Krempien as Complaints Director and Mr. Whissell as Deputy Registrar) gave evidence about their understanding of the regulatory background. Generally speaking, there is a legal prohibition on witnesses providing legal opinions or evidence about the law. Ms. Sohrabirad was not represented by legal counsel and so there was no objection to this evidence.

[24] Mr. Renouf submitted that no standards of practice with respect to cosmetic services provided by pharmacists has ever been adopted by the College pursuant to section 133 of the HPA. The Hearing Tribunal relied exclusively on the expert evidence of the Complaints Director, Mr. Krempien, and Deputy Registrar, Mr. Whissell, to determine the applicable standards of practice. Both provided evidence about cosmetic Botox and medical Botox that was erroneous and misleading to the Hearing Tribunal. Mr. Krempien's evidence was that cosmetic Botox and medical Botox are the same product despite having separate Drug Identification Numbers ("DINs") and both require a prescription. Mr. Whissell testified that cosmetic Botox requires a prescription.

[25] The Post-Hearing Letter outlined information from Alberta Health that was in clear contradiction to the evidence of Mr. Krempien and Mr. Whissell. Despite this, counsel for the Complaints Director stated in the Post-Hearing Letter that Alberta Health's response did not alter the Complaints Director's position. Mr. Renouf noted that this was a legal and

logical error that fundamentally undermined the Merits Decision and continued to permeate the Sanctions Decision.

- [26] Mr. Renouf noted that Ms. Sohrabirad was providing personal services in accordance with the *Public Health Act*, and she was authorized to administer cosmetic Botox in her regulated medical spa. Mr. Renouf pointed to a recent Ontario decision, *North Shore Laser Clinic Inc. v Attorney General of Ontario*, 2021 ONSC 4013, in support that cosmetic Botox is a personal service.
- [27] With respect to Ms. Sohrabirad’s social media posts, Mr. Renouf noted that while “off duty” conduct may give rise to a finding of unprofessional conduct, there is a different test to be applied to that conduct. Ms. Sohrabirad cannot be disciplined for “off duty” conduct unless that conduct affects her ability to provide professional services, or threatens the reputation of, or public confidence in, the profession of pharmacy. The Hearing Tribunal concluded that there was a connection between the practice of pharmacy and the personal services provided by Ms. Sohrabirad but provided no analysis for this conclusion.
- [28] Mr. Renouf further noted the Complaints Director sought to prohibit Ms. Sohrabirad from using a title she is otherwise authorized to use when she provides services under the *Public Health Act*. However, the HPA does not restrict a member’s use of a protected title to the member’s provision of professional services. Ms. Sohrabirad is not misrepresenting herself to deceive the public about her membership in a regulated profession. The Hearing Tribunal is a statutory body that derives its powers from the HPA, and cannot apply the College’s rules in a way that violates Ms. Sohrabirad’s Charter rights. The Hearing Tribunal erred in finding that Ms. Sohrabirad acted unprofessionally when she identified herself as a pharmacist (and importantly, not a “regulated” or “registered” pharmacist), on Rx to Beauty’s Instagram profile page.
- [29] Mr. Renouf took the position that the Hearing Tribunal’s decision is not reasonable. Mr. Renouf submitted that Ms. Sohrabirad’s social media posts, including the Instagram posts, are not advertising. He noted that advertising is something that may be considered intrusive. It is not something that the recipient must seek out. The information about Rx to Beauty as identified with hashtags would attract members of the public who are seeking cosmetic services and not the public at large. The “inducement” post particularized in allegation 1(d)(i) does not show when it was published, or how many “likes” it received. The “inducement” post particularized in allegation 1(d)(ii) was published in November 2019 and received 37 “likes”. Ms. Sohrabirad was not identified as a pharmacist, or at all in these advertisements as another “click” was required to see the Rx to Beauty’s Instagram profile. There are no screen-captures of Ms. Sohrabirad’s profile at the time the “inducements” were posted. There is no evidence of how Ms. Sohrabirad identified herself in her profile at the time the inducements were posted.
- [30] With respect to Allegation 2(b), Mr. Renouf noted that the issue did not involve conventional advertising, but rather a social media post. It was Mr. Krempien’s evidence that with respect to Allegation 2(b), Ms. Sohrabirad advertised her registration as a pharmacist with APA in conjunction with the operation of Rx to Beauty, which incorrectly suggested a connection between the practice of pharmacy and cosmetic services provided

by Rx to Beauty. Mr. Krempien testified that “it would not have been a concern if there was no mention of her being a pharmacist on there.” In other words, Mr. Krempien did not take issue with the name of Ms. Sohrabirad’s company.

- [31] Mr. Renouf noted however, that the Hearing Tribunal took issue with the name of the company itself; a concern which was not particularized in the Notice of Hearing:

The Tribunal found that Ms. Sohrabirad’s advertising of her registration with the College and her APA combined with the “Rx” in her business name contributed to this. Ms. Sohrabirad suggested the public would not know that “Rx” refers to prescriptions for drugs. The Tribunal disagrees. The term “Rx” is commonly understood to refer to a prescription for drugs. (Merits Decision, page 25)

- [32] Mr. Renouf provided examples of dictionary definitions that show “Rx” has other commonly understood meanings among the public, including that it is a solution to a problem.

- [33] In addition, Mr. Renouf took the position that there was no acknowledgement by the Hearing Tribunal that Ms. Sohrabirad was performing services regulated by public welfare legislation designed to preserve and protect public health. He noted that commercial speech is protected under freedom of expression under the Charter, not because of the economic interest of the speaker, but because it fosters informed consumer choice, which is an important public interest.

Sanction Decision

- [34] With respect to the Sanction Decision, Mr. Renouf noted that the penalties imposed by the Hearing Tribunal must be found to be unreasonable if they do not bear a direct relationship to the wrongdoings found to have been committed. Mr. Renouf took the position that the sanctions are plainly unreasonable considering the findings made by the Hearing Tribunal.

- [35] Mr. Renouf noted that the Hearing Tribunal did not make any findings as to how many times Ms. Sohrabirad provided professional services outside a licensed pharmacy. Without making such a finding as to “what has actually happened,” the Hearing Tribunal could not set an appropriate sanction proportionate to the conduct involved. The orders that prohibit Ms. Sohrabirad from serving as a pharmacy owner, proprietor or licensee, that she completes the Licensee Education Program and that she supplies a copy of the decision to any pharmacy employer or licensee do not bear a direct relationship to the wrongdoing found to have been committed. There is no deterrent value in the orders, and they do not protect the public interest given the paramountcy of the *Public Health Act*.

- [36] Mr. Renouf noted that Ms. Sohrabirad has been the licensee of nine different pharmacies without complaint. Ms. Sohrabirad’s ability to serve in these roles is not in question, and she has done so without incident in the past. It was Ms. Sohrabirad’s uncontested evidence that when she administers medical Botox she does so in a pharmacy and updates Netcare accordingly.

- [37] The revocation of Ms. Sohrabirad’s APA is similarly unreasonable. In the Merits Decision the Hearing Tribunal wrote that it was “...not satisfied that it was misleading for Ms. Sohrabirad to refer to her registration and APA and her ability to administer medications by injection in her advertising.” The Hearing Tribunal found it was not proven that Ms. Sohrabirad relied on her registration as a pharmacist with APA to purchase Botox. However, in its Sanction Decision, the Hearing Tribunal made a finding that Ms. Sohrabirad acquired a Schedule 1 drug using her registration with the College and her APA and then sold and administered it to patients outside of a licensed pharmacy. This is inconsistent with the evidence at the hearing.
- [38] In addition, Mr. Renouf noted that the Hearing Tribunal provided no justification to impose a fine in this case. The order that Ms. Sohrabirad move her client records to a pharmacy is unnecessary. The Personal Services Standards addresses requirements for “Client Records and Record Keeping.”
- [39] Mr. Renouf also submitted that the Hearing Tribunal failed to consider mitigating factors, as follows: there were no adverse effects on Ms. Sohrabirad’s clients; Ms. Sohrabirad had not been previously disciplined; the advertising was not advertising in the conventional sense; when Ms. Sohrabirad was notified about concerns with respect to the name of the company and advertising, she took immediate steps to address those; there is no evidence she failed to comply with the *Public Health Act*; and there are no Standards of Practice in place with respect to the provision of personal or cosmetic services by regulated members of the College.
- [40] Mr. Renouf took the position that the orders are inconsistent with precedent and unreasonable. In addition, Mr. Renouf stated there was delay in this case, noting that one alleged inducement was posted in November 2019 and there is no evidence as to when the second was posted.
- [41] Mr. Renouf addressed the costs imposed in this case, citing the Alberta Court of Appeal decisions in *Alsaadi and Jinnah v Alberta Dental Association and College*, 2022 ABCA 336. Mr. Renouf took the position that none of the circumstances listed in *Jinnah* applies to this case and so the starting point is that no order as to costs should have been made against Ms. Sohrabirad. The costs awarded are unreasonable considering the nature of the allegations.

Submissions on behalf of the Complaints Director

Standard of Review

- [42] Mr. Jardine reviewed the standard of review and noted the guidance on how to conduct a reasonableness review under the recent Supreme Court of Canada decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65. The Supreme Court stated that a reviewing body must consider the rationale for the decision and the outcome to which it led and determine whether the decision is unreasonable. In doing this, the reviewing body should examine whether the decision has an “internally coherent and rational chain of analysis” and whether the decision is “justified in relation to the facts and

the law.” To that end, the Supreme Court indicated that it was not enough for the outcome of the decision to be justifiable, it also needed to be justified by the reasons provided in the decision such that an otherwise reasonable outcome should not stand if it was reached on an improper basis.

[43] Mr. Jardine also reviewed the decision in *Yee* cited by Mr. Renouf.

Procedural Fairness

[44] Mr. Jardine submitted that there were no issues of procedural fairness created by Ms. Sohrabirad’s decision to attend the hearing without legal counsel. Ms. Sohrabirad waived her right to legal counsel which was confirmed at the hearing.

[45] With respect to the Post-Hearing Letter, Ms. Sohrabirad received the letter and did not provide any response to the Hearing Tribunal. The new information clarified the Complaints Director’s earlier submissions that Ms. Sohrabirad was in fact required to adhere to both the Personal Services Regulation and the legislative framework governing pharmacists. It did not advance any new arguments.

[46] With respect to the arguments regarding the roles played by the Complaints Director, Mr. Jardine stated that it was not unusual for the Complaints Director to direct an investigation, determine referral and provide evidence as a witness.

[47] In addition, Mr. Jardine noted that if the Panel finds that there was procedural unfairness, such procedural fairness issues are cured by allowing Ms. Sohrabirad the opportunity to respond at this appeal, which she has done.

Appeal Regarding the Merits Decision

[48] Mr. Jardine reviewed the legislative framework under the HPA, Pharmacists and Pharmacy Technicians Profession Regulation and the *Pharmacy and Drug Act* (“PDA”). Schedule 1 drugs are defined under the PDA. While Botox Cosmetic and Botox Medical have different DINs, they contain the same active ingredient. Botox is a Schedule 1 drug for the purpose of the PDA. The British Columbia Court of Appeal, in looking at a case involving similar legislation, held that Botox is a Schedule 1 drug sold under a variety of brand names, including Botox Cosmetic, which means it requires a prescription for sale.

[49] Mr. Jardine acknowledged that the College does not govern personal services under the Personal Services Regulation and its standards. That is the role of the Government of Alberta. The Post-Hearing Letter cites a passage from the letter from Ms. ████████ of Alberta Health and notes that: “If some of your college members are administering Botox for esthetic reasons in a facility that does not meet the criteria for exemption, they must meet the requirements of the standards and regulation (together with any college-imposed requirements).”

[50] Mr. Jardine noted that the legal principle of paramountcy does not apply in this case as there is no conflict between the *Public Health Act* and the HPA or the PDA.

- [51] Mr. Jardine noted that administration of Botox by injection is a professional service under the HPA. Regardless of how Botox is marketed, it is a Schedule 1 drug. It cannot be sold except pursuant to a prescription. The College does not have specific standards related to the prescribing, storage and administration of Botox by injection, but specific standards are not required. The entirety of the legislative framework, including the Standards of Practice for Pharmacists and Pharmacy Technicians apply to all drugs except where explicitly stated otherwise. There is no exemption for pharmacists to treat Botox differently. The College was not required to adopt a standard of practice specific to the administration of Botox by injection for cosmetic purposes.
- [52] It was submitted that, although any individual may be authorized to inject a cosmetic product under the Personal Services Regulation, when a pharmacist administers a drug by injection, they must comply with the legislative framework governing the pharmacy profession and any other legislation or regulation pertaining to their conduct. A pharmacist cannot be permitted to procure Botox based on their authorization as a clinical pharmacist with APA and then fail to adhere to the legislative framework that governs their profession once it is received. Any other conclusion would place the College's authority to regulate both professional and pharmacy services at risk.
- [53] With respect to advertising, it was noted that Ms. Sohrabirad's conduct was not "off-duty conduct." She was holding herself out as a pharmacist and relying on her authorizations as a pharmacist to perform services through Rx to Beauty.
- [54] The Hearing Tribunal's decision did not unjustifiably infringe Ms. Sohrabirad's expressive rights. A pharmacist cannot advertise themselves in a manner that suggests to the public that they are more capable of performing services that do not fall within the practice of the profession compared to unregulated individuals or that suggest that they are performing services in accordance with the legislative framework that governs the profession when they are not.
- [55] Mr. Jardine also noted that Ms. Sohrabirad did not take the position at the hearing that her Instagram posts were not a form of advertising and as such, that argument should not be considered by the Panel.
- [56] Further, Mr. Jardine noted that if the Panel considers this argument, it should find that social media posts such as Instagram, are a form of advertising. Ms. Sohrabirad's Instagram posts under the account Rx to Beauty were made to advertise her business, regardless of how many people she reached.
- [57] Mr. Jardine noted that the Hearing Tribunal reasonably concluded that Ms. Sohrabirad's advertising of her registration with the College in connection with the use of "Rx" was misleading. There is a connection of "Rx" (a short hand for prescription) in her business name to her professional title as a pharmacist.

Sanction Decision

- [58] Mr. Jardine submitted that the Sanctions Decision is reasonable, except for the grounds advanced by the Complaints Director on cross-appeal. The orders made are reasonable and

are linked to the conduct at issue. The Hearing Tribunal did consider mitigating factors, as appropriate. Finally, it is submitted that the sanctions imposed were consistent with precedent.

[59] Mr. Jardine noted that there is no suggestion that any delay in the hearing process created a sanction that was disconnected from the conduct at issue.

[60] Finally, Mr. Jardine submitted that the order for costs is reasonable. The Hearing Tribunal issued 25% of the costs of the investigation and hearing. The Hearing Tribunal considered the new approach to costs as set out in *Jinnah*.

Reply on behalf of Ms. Sohrabirad

[61] In reply, Mr. Renouf submitted that purchasing cosmetic Botox is a completely different system than ordering drugs as a pharmacist, where the pharmacy number must be provided. The suppliers of cosmetic Botox, Allergan and Galderma, supply cosmetic Botox to persons who are qualified to administer cosmetic Botox in Alberta. These can be dentists, physicians, registered nurses, nurse practitioners and pharmacists. The person ordering the cosmetic Botox must receive a certification from a training program and they are then able to buy cosmetic Botox directly from those two suppliers. Ms. Sohrabirad gave evidence about this in the hearing. Ms. Sohrabirad obtained the cosmetic Botox under the *Public Health Act* and Personal Services Regulation.

[62] In the Merits Decision, the Hearing Tribunal found that it was not proven that Ms. Sohrabirad relied on her registration as a pharmacist with APA to purchase Botox. However, in the Sanctions Decision, the Hearing Tribunal found that Ms. Sohrabirad acquired a Schedule 1 drug using her registration with the College and her APA, and then sold and administered it to patients outside of a pharmacy. There is fundamental error in the Sanctions Decision with respect to those comments.

[63] Mr. Renouf again addressed the Post-Hearing Letter and noted that the Alberta Health letter from Ms. [REDACTED] was never provided to Ms. Sohrabirad. Rather the Complaints Director provided a letter to the Hearing Tribunal which quoted from Ms. [REDACTED]'s letter. Mr. Renouf also noted that Ms. [REDACTED] was writing on behalf of Alberta Health and not Alberta Health Services. These are two very different structures. Alberta Health Services is responsible for administration of personal services under the *Public Health Act* and Personal Services Regulation. As such, it is not known what Alberta Health Services thought of Ms. [REDACTED]'s letter.

[64] Mr. Renouf submitted that even if Ms. [REDACTED]'s comments are accepted as they relate to "college-imposed requirements," this should read as "college-imposed requirements, if any." There are no Standards of Practice created by the College pursuant to section 133 of the HPA. The College decided not to impose any requirements.

[65] Mr. Renouf noted that Ms. Sohrabirad gave evidence in the hearing that she was regularly practicing as a pharmacist, something that she continues to do. The medical spa business was always a secondary business for Ms. Sohrabirad.

CROSS-APPEAL BY THE COMPLAINTS DIRECTOR

Submissions on behalf of the Complaints Director

Merits Decision

- [66] The Complaints Director in cross-appeal challenged the findings of the Hearing Tribunal that Allegations 1(a) and Allegation 2(a) were not proven.
- [67] Mr. Jardine noted that the evidence before the Hearing Tribunal is that PRP is a drug and that Ms. Sohrabirad was administering it by subcutaneous injection or microneedling outside of a licensed pharmacy and in a manner that was not associated with a licensed pharmacy. Ms. Sohrabirad's evidence was that she relied on her registration and authorizations as a pharmacist to purchase PRP kits and provide PRP.
- [68] Based on this evidence, the Complaints Director submitted that Ms. Sohrabirad was either:
1. providing PRP when she was not authorized to do so (because PRP falls outside of the practice of pharmacy and should not be prepared or administered by a pharmacist); or
 2. she was providing PRP in a manner that did not comply with her obligations under the Standards of Practice for Pharmacists and Pharmacy Technicians.
- [69] Mr. Jardine submitted that a pharmacist is not authorized to provide services that do not fall within the practice of pharmacy, nor are they authorized to provide professional services that are not in accordance with the Standards of Practice. This is especially so when they hold themselves out as a pharmacist and rely on their registration as a professional to provide services to the public.
- [70] It was submitted that Health Canada limits the provision of PRP to practitioners, including physicians and dentists, authorized to treat patients with prescription drugs under the scope of practice of medicine and dentistry. Health Canada contemplates that PRP falls under the scope of practice of medicine and dentistry and outside of those conditions, a person must receive authorization from Health Canada.
- [71] The acts of prescribing a drug and administering medications by injection are restricted activities. Mr. Jardine acknowledged the Hearing Tribunal's finding that Alberta pharmacists can be authorized to prescribe prescription drugs if they have received APA and can obtain the authority to administer medications by injection. However, in each instance, they must do so in accordance with the Standards of Practice. ACP has no Standards of Practice to specifically guide pharmacists providing PRP, including in how to prepare PRP, because the College has not contemplated that a pharmacist would provide PRP. The Deputy Registrar and the Complaints Director gave evidence that PRP does not fall within the practice of pharmacy.

[72] The Complaints Director’s position is that PRP does not fall within the practice of a pharmacist. If the Panel finds that it does, then the Hearing Tribunal should have found that Ms. Sohrabirad was not authorized to provide it in the manner that she was.

[73] With respect to Allegation 2(a), the Hearing Tribunal found that:

Ms. Sohrabirad’s Instagram posts described her as a “Pharmacist with APA...MedicalDirector #Botox...” and as an “Advanced Aesthetic Injector.” Her posts included links to her Instagram page for Rx to Beauty and for her website www.rxtobeauty.ca. In her posts she also described herself as a “prescribing clinical pharmacist” who is “fully trained and certified in all injections I do.”

...

There was insufficient evidence that the cosmetic injections Ms. Sohrabirad offers through Rx to Beauty are clearly outside the practice of pharmacy. The Tribunal was not satisfied that it was misleading for Ms. Sohrabirad to refer to her registration and APA and her ability to administer medications by injection in her advertising.

[74] It was submitted that the Hearing Tribunal’s decision was unreasonable because it failed to account for the evidence before it and failed to justify its conclusions with reasons.

[75] Mr. Jardine submitted that Allegation 2(a) should be proven because Ms. Sohrabirad misled the public when she relied on and advertised her registration and authorizations as a pharmacist to suggest she was capable of providing services that do not fall within the practice of pharmacy (i.e. the provision of PRP (vampire facials) and fillers (non-surgical nose jobs)) and advertised her ability to provide medications by injection (Botox, PRP) in a manner that was contrary to the Standards of Practice.

[76] Mr. Jardine noted that section 102 of the HPA clearly states that a regulated member shall not engage in advertising that is untruthful, inaccurate, or otherwise capable of misleading or misinforming the public.

[77] Mr. Jardine noted that the public must be able to expect that when a pharmacist advertises professional services they will fall within the practice of the profession and be provided in accordance with the Standards of Practice. When Ms. Sohrabirad relied on her registration as a pharmacist with APA and the authorization to administer medications by injection to promote her ability to provide cosmetic injections, she was misleading the public.

[78] It was also submitted that even if the Hearing Tribunal was not satisfied that the provision of PRP and fillers is outside of the practice of pharmacy, it found Ms. Sohrabirad was providing Botox in a manner that was contrary to the Standards of Practice in Allegation 1(b) and should have found Allegation 2(a) proven on this basis.

Sanction Decision

- [79] Mr. Jardine submitted that the Hearing Tribunal erred in the Sanctions Decision when it failed to provide a clear or justifiable reason for ordering fines lower than those proposed by the Complaints Director.
- [80] The Complaints Directors sought fines of \$5,000 for each of the proven allegations (Allegations 1(b), (d) and Allegation 2(b)) for a total of \$15,000. Ms. Sohrabirad suggested a fine of \$2,500 for Allegation 1 (encompassing both 1(b) and 1(d)) and \$2,500 for Allegation 2(b). The Hearing Tribunal imposed fines of \$2,500 for each of Allegation 1(b) and 1(d) and a fine of \$1,500 for Allegation 2(b), for a total fine of \$6,500. The Hearing Tribunal provided no reasons for this, beyond that it thought the amounts were appropriate.
- [81] Mr. Jardine noted that the proven conduct in Allegation 1 means that Ms. Sohrabirad defied foundational expectations of a pharmacist. Allegation 1 is serious and the proven conduct warrants a fine of \$5,000 for each particular, for a fine of \$10,000. For Allegation 2(b), Ms. Sohrabirad relied on her registration as a pharmacist to give credence to her business, which operates outside of the practice of pharmacy. Ms. Sohrabirad's conduct was misleading to the public. Her conduct was serious.
- [82] The Complaints Director states that if the modest fines awarded are permitted to stand without justification, Ms. Sohrabirad and other members of the profession will assume that similar unprofessional conduct will result in a fine that is considered a line item towards the cost of doing business. This does not accord with the fundamental purpose of sanctions, which is to ensure the public is protected from repeated instances of unprofessional conduct in the future.

Submissions on behalf of Ms. Sohrabirad

- [83] Mr. Renouf submitted that the Hearing Tribunal's determinations for Allegations 1(a) and 2(a) are reasonably sustainable because they are the only determinations available based on the vague and unreliable evidence presented by the Complaints Director.
- [84] Mr. Renouf pointed to the evidence in the record regarding PRP and the witnesses called to give evidence on PRP, being the Complaints Director and the Deputy Registrar. The evidence in the hearing did not establish that PRP is a drug. Based on the record in the appeal, it is not open to the Panel to reach a finding that PRP is a drug.
- [85] Mr. Renouf took the position that it is not open to the Panel to find that Ms. Sohrabirad was "providing PRP in a manner that did not comply with her obligations under the Standards of Practice for Pharmacists and Pharmacy Technicians" as this was not a charge in the Notice of Hearing. A professional cannot be found guilty of unprofessional conduct other than that specifically set out in the four corners of the Notice of Hearing.
- [86] With respect to Allegation 2(a), Mr. Renouf referred the Panel to his submissions on Allegation 2(b). Further, Mr. Renouf noted that there was no cogent and convincing evidence presented by the Complaints Director as to which "cosmetic services" Ms.

Sohrabirad was providing that do not fall within the practice of pharmacy or the Standards of Practice.

- [87] Mr. Renouf submitted that the Hearing Tribunal’s findings were reasonably sustainable and the Panel should not intervene.
- [88] With respect to the cross-appeal on the fines, Mr. Renouf referred the Panel to Ms. Sohrabirad’s submissions on appeal. It was also stressed that the Complaints Director failed to provide any evidence as to how often Ms. Sohrabirad provided services the Hearing Tribunal found to be objectionable, which would be evidence necessary to determine the amount of an appropriate fine.
- [89] Finally, it was noted that Ms. Sohrabirad objected to the Complaints Director’s submission that she considers the fine “a line item towards the cost of doing business.” Mr. Renouf noted that the sanctions imposed by the Hearing Tribunal were onerous and punitive, and there was no evidence before the Hearing Tribunal as to the financial state of Ms. Sohrabirad’s business. Without evidence of this kind, it is equally plausible that the sanctions imposed on Ms. Sohrabirad, when considered together, may bankrupt her business.

QUESTIONS FROM THE PANEL

- [90] At the conclusion of the appeal hearing, the Panel asked the parties the following additional questions:
1. Is there a requirement to be a regulated member (i.e., a pharmacist) to purchase Botox? In addition:
 - a. Can someone who is not a regulated professional purchase Botox?
 - b. Is APA required for a pharmacist to purchase Botox?
 2. Is there a requirement to be a regulated member (i.e., a pharmacist) to purchase PRP kits? In addition:
 - a. Can someone who is not a regulated professional purchase PRP kits?
 - b. Is APA required for a pharmacist to purchase PRP kits?
 3. What is meant by the term “Medical Director”?

Submissions on behalf of Ms. Sohrabirad

- [91] On June 2, 2023, Mr. Renouf provided written responses to the questions. For question 1, Mr. Renouf noted that Botox is the trade name for the cosmetic form of botulinum toxin. There are several different brands available, and each company sells its product in accordance with its own policies and requirements. Not all companies ask for credentials

prior to selling their products to medical spas. He noted that an APA is not required to purchase cosmetic Botox.

[92] In response to question 2, Mr. Renouf noted that there is no need to be a licensed pharmacist and no need to have an APA to purchase PRP kits. PRP kits are classified as medical devices and are regulated by the Medical Devices Regulations (enacted under the *Food and Drug Act*). The Medical Devices Regulations set out the requirements governing the sale and importation of medical devices imported or sold in Canada. All manufacturers must obtain licenses from Health Canada before they are allowed to sell such devices in Canada and Health Canada has issued licenses to companies classifying PRP devices as Class II medical devices. Class II medical devices are defined as a non-invasive device intended for channelling or storing gases, liquids, tissues or body fluids for purpose of introduction into the body by means of infusion or other means of administration.

[93] In response to question 3, Mr. Renouf noted that they could not locate a statutory or standard definition of a “Medical Director”. According to Ms. Sohrabirad, a Medical Director is a trained person who supervises and takes responsibility for the operations, procedures and services offered by a medical spa.

Submissions on behalf of the Complaints Director

[94] On June 2, 2023, Mr. Jardine provided written responses to the questions. For question 1, Mr. Jardine noted that Botox, in all its preparations, is a Schedule 1 drug listed on the federal Prescription Drug List, which means it must be sold pursuant to a prescription or in accordance with C.01.043(1) of the Food and Drug Regulation. Mr. Jardine noted that the Complaints Director’s response is based on legislation whereas Ms. Sohrabirad’s response includes additional information about the availability of Botox for sale that was not presented during the investigation or hearing and has not been tested or subject to cross-examination. It also appears that not all companies sell cosmetic Botox in accordance with the legislative requirements.

[95] Mr. Jardine further noted that the Complaints Director is not aware of whether a licensee would be required to hold APA to purchase Botox on behalf of a pharmacy. However, if a pharmacist was seeking to acquire Botox to issue a prescription, the pharmacist would require their APA. Ms. Sohrabirad’s evidence was that she understood pharmacists could order Botox if they were able to prescribe it and that the drug manufacturer asked for training certificates in respect to administering cosmetic Botox.

[96] In response to question 2, Mr. Jardine noted that PRP is classified as a drug by Health Canada and can only be provided by a practitioner practicing within the scope of medicine and dentistry. Based on the information provided by Ms. Sohrabirad at the hearing, APA is required for a pharmacist to acquire and use PRP kits to provide PRP treatments to patients. Ms. Sohrabirad’s evidence was also that she relied on her registration and authorizations as a pharmacist to purchase PRP kits and provide PRP. To purchase the PRP kits, Ms. Sohrabirad relied on the fact that there is no regulation that prohibits pharmacists from drawing blood. However, she maintained that despite this reliance on her registration and authorizations, the PRP as administered, along with the other services she provided

through Rx to Beauty, were of a cosmetic and personal nature and fell outside of the practice of a pharmacist and the College's regulatory authority.

[97] Mr. Jardine reviewed information provided by Ms. Sohrabirad in the hearing and stated that none of the materials provided by Ms. Sohrabirad support the conclusion that PRP kits can be sold by a manufacturer for use by a non-health professional.

[98] In response to question 3, Mr. Jardine noted that the term Medical Director is not a protected title under the HPA and is not used, authorized or regulated by the College. In the context of this hearing, Ms. Sohrabirad used the term Medical Director to direct and carry on a medical spa business. She used the term Medical Director to convey to third parties that she was a regulated health care professional with authorization to prescribe drugs.

VI. DECISION

[99] The Panel has carefully considered the record, the written submissions of the parties, the oral submissions made at the appeal hearing and the responses provided on June 2, 2023 to the additional questions from the Panel.

[100] The Panel dismisses Ms. Sohrabirad's appeal on Allegation 1(b) and 1(d). However, with respect to Allegation 1(b), the Panel finds that only Allegation 1(b)(i), (ii) and (iii) is proven and that Allegation 1(b)(iv), (v) and (vi) is not proven. Ms. Sohrabirad's appeal on Allegation 2(b) is allowed and Ms. Sohrabirad's appeal on sanction is allowed, in part. The Panel dismisses the Complaints Director's appeal on Allegation 1(a) and 2(a). The Panel allows the Complaints Director's appeal on sanction, in part.

VII. REASONS FOR DECISION

Standard of Review

[101] The Panel considered the standard of review that should be applied to the Merits Decision and Sanction Decision.

[102] The Panel applied the standard of review of reasonableness, while also considering the principles set out by the Alberta Court of Appeal in *Yee*. In considering the decision in *Yee*, the Panel noted that it should remain focused on whether the decision of the Hearing Tribunal is based on errors of law, errors of principle, or is not reasonably sustainable. The Panel should give regard to the Hearing Tribunal decision on questions of law or matters engaging the expertise of the profession, but noted that the Panel is equally well positioned to make findings on questions of law or matters engaging the expertise of the profession, such as those relating to setting standards of conduct. The Panel can intervene if it perceives unreasonableness, errors of principle, potential injustice or procedural unfairness.

Procedural Fairness

- [103] The Panel considered the fairness issues raised by Ms. Sohrabirad, in particular the various roles played by the Complaints Director, the concerns raised over the Post-Hearing Letter and that Ms. Sohrabirad was unrepresented by legal counsel at the hearing.
- [104] With respect to the role of the Complaints Director, the Panel noted that under the HPA a Complaints Director can be the complainant, investigator and is the decision maker on whether a matter is referred to hearing. The Complaints Director instructs prosecuting counsel at the hearing and determines if the Complaints Director will appeal the decision of the Hearing Tribunal. As such, the Panel did not find these roles to be of concern. However, the Panel noted that neither the Complaints Director nor the Deputy Registrar were qualified as expert witnesses and as such, their evidence should not have included opinion evidence about the interpretation of the legislative scheme or whether Ms. Sohrabirad breached the legislation or Standards of Practice. As noted by Mr. Renouf, had Ms. Sohrabirad been represented by legal counsel, the legal counsel would be expected to have objected to this type of opinion evidence at the hearing.
- [105] With respect to the Post-Hearing Letter, the Panel found that there was ambiguity about how the letter was obtained and shared. The Panel had several concerns. First, the letter was from Alberta Health rather than Alberta Health Services. Second, the author of the letter, Ms. ██████ is not known nor was she available to be cross-examined on the statements made in the letter. Finally, only certain sections of the letter were reproduced in the Post-Hearing Letter from counsel for the Complaints Director, rather than providing Ms. Sohrabirad and the Hearing Tribunal a copy of the entire letter.
- [106] In addition, the Panel considered that Ms. Sohrabirad was unrepresented by legal counsel in the hearing. She was not presented with the option to object to the Post-Hearing Letter or respond to it. The Panel finds that Ms. Sohrabirad should have been provided the opportunity by the Complaints Director or the Hearing Tribunal to object to or respond to the Post-Hearing Letter. For these reasons, the Panel determined that limited weight should be placed on the letter.

Merits Decision

Allegation 1(a)

- [107] Allegation 1(a) is that Ms. Sohrabirad failed to understand or comply with her obligations to uphold the Standards of Practice and Code of Ethics when she provided professional services, including providing services a pharmacist is not authorized to provide when she provided patients with PRP injections, including the drawing of venous blood for that purpose. The Hearing Tribunal found this allegation was not proven. The Complaints Director appeals this finding.
- [108] The Panel considered the findings of the Hearing Tribunal. The Hearing Tribunal found: “it was not sufficiently clear that the PRP therapy Ms. Sohrabirad was providing was a “professional service” in the practice of pharmacy, or that pharmacists were prohibited

from offering PRP therapy to find Allegation 1(a) proven on a balance of probabilities.” (Merits Decision, page 18)

- [109] The Panel finds that the decision of the Hearing Tribunal on Allegation 1(a) is reasonable. The Panel considered the submissions of both the Complaints Director and Ms. Sohrabirad. The Panel accepts the Complaints Director’s submission that PRP does not fall within the scope of practice of a pharmacist. As such, it is not a professional service that has any place in the practice of pharmacy.
- [110] The Panel also accepts Mr. Renouf’s submission that there was insufficient evidence to call PRP a drug. The evidence regarding PRP therapy was provided by Mr. Krempien, Complaints Director and Mr. Whissell, Deputy Registrar. The Complaints Director and Deputy Registrar were not called as experts at the hearing and so could not provide expert opinion evidence with regards to PRP therapy. The Panel therefore did not place weight on their opinion regarding a bulletin from Health Canada which defines PRP as “a drug.”
- [111] In addition, while Health Canada has taken the position that PRP is a drug in a bulletin (Exhibit 1, Tab C, page 151 and 152), the Panel found that this document is not determinative of the issue. The Panel was not able to identify PRP as a drug as defined by sections 31 through 34 of the PDA. Further, in response to the Panel’s questions, information was provided that PRP kits are regulated under the Medical Devices Regulation as medical devices. While Ms. Sohrabirad stated on the record that she used her APA to acquire the PRP kits, it is not clear to the Panel that she was required to do so.
- [112] In addition, Ms. Sohrabirad’s evidence at the hearing was that she was not drawing venous blood to produce the PRP. The Hearing Tribunal found that she mainly uses microneedling and applies the PRP to the face. She does not inject PRP into joint or muscles as they do in medicine. Ms. Sohrabirad’s evidence was that an LPN was performing all the venous blood draws to support PRP injections.
- [113] The Panel considered that it must base its decision on the record. The Panel did not find the bulletin setting out Health Canada’s position or the witness testimony to be sufficient evidence to conclude that PRP is a drug, given that it is not listed as a drug in any legislation schedule regulating drugs.
- [114] The Panel reviewed the Personal Services Regulation, in particular the definitions in section 1: “‘cosmetic product’ means a substance or mixture of substances that is manufactured, sold and represented for use by application on or injection into the body for the purpose of (i) enhancing, preserving or altering the appearance of the skin, ...” The Panel finds that PRP, in the context of the Personal Services Regulation, is a cosmetic product and did not find sufficient evidence to establish that PRP and the provision of it in Ms. Sohrabirad’s medical spa is a drug.
- [115] The Hearing Tribunal’s conclusion that there was insufficient evidence that Ms. Sohrabirad was providing professional services was reasonable. This conclusion is supported by the Complaints Director’s view that providing PRP is not within the scope of the practice of a pharmacist.

- [116] The Panel found the Hearing Tribunal’s decision that there was insufficient evidence that pharmacists were prohibited from offering PRP therapy within the context of a medical spa to be reasonable.
- [117] For these reasons, the decision of the Hearing Tribunal that Allegation 1(a) was not proven is reasonable. The Panel confirms that Allegation 1(a) is not proven. In the overall context of the practice outlined in the Hearing Tribunal, where Ms. Sohrabirad performed PRP solely in her medical spa business, the evidence did not establish on a balance of probabilities the following elements from Allegation 1(a): PRP is a professional service, that pharmacists are not authorized to provide PRP injections or that Ms. Sohrabirad was drawing venous blood for the purpose of PRP. The Panel considered Ms. Sohrabirad’s provision of PRP therapy to fall completely under the Personal Services Regulation as it was not clearly established as a drug under the PDA. As such, PRP is not a professional service but a cosmetic service. The Complaints Director’s appeal on this ground is dismissed.

Allegation 1(b)

- [118] Allegation 1(b) is that Ms. Sohrabirad failed to understand or comply with her obligations to uphold the Standards of Practice and Code of Ethics when she provided professional services, including when she sold and administered Botox, a Schedule 1 medication, to patients of Rx to Beauty. The Hearing Tribunal found this allegation was proven. Ms. Sohrabirad appeals this finding.
- [119] The Panel considered the arguments from both parties on this allegation. The Complaints Director referenced the National Association of Pharmacy Regulatory Authorities (“NAPRA”) drug schedules and identified that Botox was listed as a Schedule 1 drug. The Panel accepts that while Botox for medical use and Botox for cosmetic use are distributed by different processes in Canada, they both do have a DIN and are a drug as defined by the NAPRA drug schedules.
- [120] There was no objection from either the Complaints Director nor Mr. Renouf with the statement in the Post-Hearing Letter that Botox when administered for esthetic reasons was defined as a cosmetic product. It was also clear to the Panel that Ms. Sohrabirad did sell and inject Botox in her medical spa, Rx to Beauty (as evidence in the record of hearing).
- [121] The record also indicates that in order to purchase Botox cosmetic, certain criteria needed to be satisfied. While counsel for Ms. Sohrabirad provided information that not all companies who sell Botox follow the requirements, the Panel focussed on the information in the record and on the legislative requirements in considering this allegation. In addition, regardless of the mechanism used to purchase the Botox, Ms. Sohrabirad acknowledged procuring a Schedule 1 drug (Botox cosmetic) using her credentials as a pharmacist. The PDA has clear requirements for when a Schedule 1 drug is procured, with respect to the storage of this drug. Botox, whether for medical use or cosmetic use, is a Schedule 1 drug under the PDA.

- [122] A pharmacist acquiring a Schedule 1 drug must follow the requirements set out in the legislation, including the PDA and Standards of Practice. The Panel does not accept that Ms. Sohrabirad is excused from following the requirements because she is operating in a medical spa. The PDA is clear on how drugs are to be managed and the PDA applies as Ms. Sohrabirad procured the drug using her pharmacist credentials.
- [123] The evidence supports that Ms. Sohrabirad did not comply with the requirements in the PDA and Standards of Practice, including that the medication was not prescribed, it was not stored in a pharmacy and it was not dispensed from a pharmacy. The Panel finds that Allegation 1(b)(i), (ii) and (iii) are proven. The Panel acknowledges that record keeping and collaboration are also clear in the PDA, but considered the specifics of Ms. Sohrabirad's application of the Personal Services Regulation (PSR). The Panel finds that in the circumstances of this case, patient records were not created under the PDA, rather client records were created in alignment with the PSR. The Panel found the collaboration requirement with other health care providers to not be applicable as the individuals receiving the Botox were clients under the PSR. The evidence did not establish that patient records were not stored at a pharmacy or another approved offsite location, that patient records were not easily accessible to other healthcare providers, or that Ms. Sohrabirad did not collaborate with other health care providers. The Panel accordingly finds Allegation 1(b)(iv), (v) and (vi) not proven.
- [124] The Panel finds that when Ms. Sohrabirad used her pharmacist credentials and prescribing authorization for purchasing a Schedule 1 drug, she was required to follow the requirements of the PDA. The Panel does not see a conflict with the PSR and PDA and thus the paramountcy clause does not apply here. The PDA is explicitly clear on the requirements of pharmacists when managing drugs. As noted by the Hearing Tribunal, "To the extent Ms. Sohrabirad is engaged in personal services through Rx to Beauty she must comply with the Personal Services Regulation and the PDA. The two pieces of legislation are not inconsistent. It is possible to comply with both of them and Ms. Sohrabirad is not permitted to choose which legislation she prefers." (Merits Decision, page 21)
- [125] The Panel agrees with the Complaints Director that where a pharmacist administers a drug by injection, they must comply with the legislative framework governing the pharmacy profession and any other legislation or regulation pertaining to their conduct.
- [126] The Hearing Tribunal found that: "Providing a Schedule 1 drug is a professional pharmacy service... the practice of pharmacy includes drug therapy. The term 'drug' is defined in the PDA Section 1(e) to include Schedule 1 drugs." (Merits Decision, page 20). This conclusion is reasonable and the Panel sees no reason to interfere with the decision of the Hearing Tribunal on Allegation 1(b). Ms. Sohrabirad's appeal of Allegation 1(b)(i), (ii), (iii) is dismissed. Even though Allegation 1(b)(iv), (v), (vi) was found not to be proven, the Panel determined that Allegation 1(b) is proven and constitutes unprofessional conduct as set out below.
- [127] The Panel considered which sections of the definition of unprofessional conduct (HPA) or misconduct (PDA) applied. The Hearing Tribunal found that sections 1(1)(pp)(i), (ii), (iii)

and (xii) of the HPA and section 1(1)(p)(i)(ii) and (ix) of the PDA applied. The Panel found there was no evidence that Ms. Sohrabirad did not have skill through this matter. Ms. Sohrabirad however did display a lack of knowledge, as she clearly did not follow through on the requirements of the PDA when procuring the Botox using her pharmacist credentials. In addition, the Hearing Tribunal's conclusion that Ms. Sohrabirad breached the Standards of Practice and the PDA contrary to sections 1(1)(pp)(ii) and (iii) of the HPA was reasonable. However, the Panel did not find that the conduct harmed the integrity of the profession or that it was detrimental to the best interests of the public. It was established during the review that the use of Botox is considered by Alberta Health to be a personal service. Cosmetic Botox is accessed by many individuals through medical spas and is regulated by the Personal Services Regulation. The Panel did not find that the public would view the provision of Botox by Ms. Sohrabirad in these circumstances as undermining the integrity of the profession. In addition, the evidence was not sufficient to demonstrate that Ms. Sohrabirad's conduct was detrimental or could be detrimental to the best interests of the public. The Panel concludes that the conduct was unprofessional conduct pursuant to section 1(1)(pp)(i)(ii) and (iii) of the HPA and misconduct pursuant to section 1(1)(p)(i) of the PDA. Additionally, the Panel found that section 1(1)(pp)(xii) of the HPA (conduct that harms the integrity of the regulated profession) does not apply here based on the public perception of cosmetic practice. The Panel finds that section 1(1)(p)(ii) and (ix) of the PDA similarly do not apply as the evidence did not support that Ms. Sohrabirad's behaviour was detrimental to the best interests of the public, nor harmed the integrity of the profession.

Allegation 1(d)

- [128] Allegation 1(d) is that Ms. Sohrabirad failed to understand or comply with her obligations to uphold the Standards of Practice and Code of Ethics when she provided professional services outside of a licensed pharmacy by offering inducements for the provision of professional services and the sale of Botox, a Schedule 1 medication, on the Instagram page for @rx_to_beauty. The Hearing Tribunal found this allegation was proven. Ms. Sohrabirad appeals this finding.
- [129] The Panel finds Allegation 1(d) to be proven. Ms. Sohrabirad acknowledged obtaining a Schedule 1 drug (Botox) using her pharmacist credentials and prescribing authorization. As outlined in the Panel reasons for Allegation 1(b), the PDA applies as a result of the Botox being procured by Ms. Sohrabirad acting as a pharmacist. All the requirements of the legislation regulating pharmacists must be followed by pharmacists, including not providing inducements for Schedule 1 drugs. The Panel finds that the posts shared by Ms. Sohrabirad promoted and incentivized Botox therapy. The Panel finds that the Instagram posts and associated hashtags were advertisements and the offers shared in the posts were inducements.
- [130] The Hearing Tribunal found that the Instagram posts constituted prohibited inducements contrary to Principle 1(13) of the College's Code of Ethics. The posts read as offers of limited time pricing on products and services including a Schedule 1 drug, Botox. If a member of the public were to call, book and proceed with an appointment they would be entering an arrangement with Ms. Sohrabirad whereby she provides the limited-time

pricing for services, including a Schedule 1 drug, upon the client obtaining and paying for the service, including the Schedule 1 drug.

- [131] The Code of Ethics prohibits inducements. The Panel finds that the Hearing Tribunal's conclusion regarding Allegation 1(d) is reasonable. Ms. Sohrabirad's appeal on this ground is dismissed.

Allegation 2(a)

- [132] Allegation 2(a) is that Ms. Sohrabirad advertised herself in a manner that was misleading to the public when she relied on her registration as a pharmacist with Advanced Prescribing Authority when she advertised on the @rx_to_beauty Instagram page her ability to administer medications by injection as part of performing cosmetic services that do not fall within the practice of pharmacy or are provided contrary to the Standards of Practice. The Hearing Tribunal found this allegation was not proven. The Complaints Director appeals this finding.
- [133] Mr. Jardine noted that Ms. Sohrabirad's conduct was not "off duty" conduct as suggested by Mr. Renouf. She could not advertise herself in a manner that suggested to the public that she was more capable of performing services that did not fall within the practice of the profession compared to unregulated individuals or that suggested she was performing services in accordance with the legislative framework that governs the profession of pharmacy.
- [134] The Hearing Tribunal concluded that: "There was insufficient evidence that the cosmetic injections Ms. Sohrabirad offers through Rx to Beauty are clearly outside the practice of pharmacy. The Tribunal was not satisfied that it was misleading for Ms. Sohrabirad to refer to her registration and APA and her ability to administer medications by injection in her advertising." (Merits Decision, page 24)
- [135] The Panel agrees that the use of a protected title is not restricted to the member's provision of professional services. The Panel did not view that Ms. Sohrabirad's use of her title was misleading to the public and the public would not expect the services to be coming from a pharmacy. Further, when Ms. Sohrabirad was informed about potential concerns with her @rx_to_beauty Instagram page, she addressed them immediately.
- [136] The Panel agrees that there is insufficient evidence in the record that injections of Botox are clearly outside the practice of pharmacy.
- [137] The Panel does not dispute the Complaints Director's position that cosmetic fillers and provision of PRP do not fall within the practice of pharmacy. The Panel does note that Ms. Sohrabirad has the right to provide services as outlined in the PSR, outside pharmacy practice.
- [138] The Panel finds that the decision of the Hearing Tribunal on Allegation 2(a) is reasonable. The Complaints Director has not proven that the services involving Schedule 1 drugs (Botox) were clearly outside the practice of pharmacy. The Panel does not connect the provision of other cosmetic injections with the practice of pharmacy, nor does the Panel

find there was clear evidence that Ms. Sohrabirad was representing her medical spa as a pharmacy. The Panel confirms that Allegation 2(a) is not proven and the Complaints Director's appeal on this ground is dismissed.

Allegation 2(b)

- [139] Allegation 2(b) is that Ms. Sohrabirad advertised herself in a manner that was misleading to the public when she advertised her registration as a pharmacist with Advanced Prescribing Authority in conjunction with the operation of the company Rx to Beauty, which, when read together, incorrectly suggests a connection between the practice of pharmacy and the cosmetic services she provides through Rx to Beauty. The Hearing Tribunal found this allegation was proven. Ms. Sohrabirad appeals this finding.
- [140] As noted by Mr. Renouf, the HPA does not restrict a member's use of a protected title to the member's provision of professional services.
- [141] The Hearing Tribunal concluded that the advertising clearly associated her registration as a pharmacist to the services of her medical spa company, Rx to Beauty. The services included "a number of services that have no relation to professional services within the practice of pharmacy." The services described include "medical grade dermaplaning," "medical grade micro needling" and "derma lift ultrasonic facelifts." The Panel did not view that Ms. Sohrabirad's use of her title and authorizations was misleading to the public in conjunction with her Instagram page. The Panel does not see a member of the public connecting these services to the practice of pharmacy.
- [142] Further, the Panel considered Mr. Krempien's testimony that it was the reference to her being a pharmacist, rather than the company's name that created a concern for the Complaints Director. The Panel accepted that this did not lead to an issue with the name of Ms. Sohrabirad's medical spa business. Despite this, the Hearing Tribunal found that the "Rx" in the company name would suggest to the public that this was associated with a pharmacy. The Panel did not find this conclusion to be reasonable. There were many examples provided by Mr. Renouf during the appeal where "Rx" has other meanings. The Panel notes that "Rx" is not a protected title in the HPA.
- [143] The Panel finds that Ms. Sohrabirad's advertising was not misleading to the public. Ms. Sohrabirad's appeal on this allegation is allowed. The Panel finds that Allegation 2(b) was not proven.

Sanction Decision

- [144] Ms. Sohrabirad appeals the sanctions imposed by the Hearing Tribunal. The Complaints Director appeals the fines ordered by the Hearing Tribunal.
- [145] The Panel carefully considered the sanctions imposed by the Hearing Tribunal. In addition, the Panel has allowed the appeal on Allegation 2(b), such that there is no finding of unprofessional conduct on Allegation 2. The Complaints Director's appeal on Allegation 1(a) and 2(a) were dismissed and as such, these remain unproven. There are findings of unprofessional conduct for Allegations 1(b) and 1(d) only.

- [146] The Panel considered that there should be a relationship between the proven unprofessional conduct and the sanction imposed. The Panel also considered that Ms. Sohrabirad was cooperative with the College throughout the investigation and proceedings. When concerns were brought to her attention about the Instagram posts, these were changed to address the concerns raised by the College. Ms. Sohrabirad indicated during the hearing that she had contacted the College in advance of starting her company, Rx to Beauty, to obtain clarification about the rules and offered to work with the College on standards.
- [147] The Panel finds that the suspension ordered in Order 1 is not warranted. The Panel finds that the conduct in this case does not rise to the level of warranting a suspension. Ms. Sohrabirad did cooperate with the College and did seek to understand the rules that applied to medical spas. Ms. Sohrabirad was clear in that she was working within the rules of the PSR. The Panel acknowledges that a Schedule 1 drug (Botox) was not handled in accordance with the PDA by Ms. Sohrabirad. Pharmacists, as part of a self regulated profession must ensure they are handling medications properly. The Panel considered mitigating issues, such as Ms. Sohrabirad's contact with the College regarding her cosmetic practice, her lack of prior discipline, no evidence of public issue with her cosmetic practice and cooperation with the Complaints Director throughout. The Panel finds that a reprimand is sufficient for the proven conduct in the circumstances of this case. This decision will serve as the reprimand.
- [148] The Panel next considered the fines imposed. As Allegation 2(b) has not been proven, there will be no fines associated with Allegation 2. The Hearing Tribunal considered the fines for Allegation 1(b) and 1(d). The Hearing Tribunal ordered a fine of \$2,500 for each of Allegations 1(b) and 1(d). The Complaints Director seeks a fine of \$5,000 for each of Allegations 1(b) and 1(d). Ms. Sohrabirad submitted in the hearing that the total fine for Allegation 1(b) and (d) should be \$2,500.
- [149] The Panel first considered Allegation 1(b). Failure to comply with the PDA in relation to a Schedule 1 drug is serious. Ensuring Schedule 1 drugs are properly handled in a pharmacy is a foundation for pharmacist practice and an expectation of the public. All Schedule 1 drugs must be appropriately handled by a pharmacist. This warrants a substantial fine. The Panel directs a fine of \$5,000 for Allegation 1(b). This reflects the seriousness of the conduct and aligns with the amount originally requested by the Complaints Director.
- [150] When the Panel considered the fine for Allegation 1(d), the Panel considered the severity of the Allegation. The Panel considered Ms. Sohrabirad's compliance with the PSR, timely response to adjusting Instagram advertising and overall cooperation with the College to be mitigating factors. Considering these mitigating factors, the Panel finds the fine for Allegation 1(d) in the amount of \$2,500 to be reasonable.
- [151] The Panel considered Order 3. Botox is a Schedule 1 drug and must be stored in accordance with the PDA and requirements of the College when ordered by a pharmacist, as it was with Ms. Sohrabirad.
- [152] However, the Panel finds that Ms. Sohrabirad's medical spa was providing personal services and not professional services. The Panel considered the privacy of the clients of

Ms. Sohrabirad's medical spa and the impact of moving records to a pharmacy that clients were likely not affiliated with to be an unreasonable intrusion into their privacy. Further, as noted under the appeal of Allegation 1(b), the clients of the medical spa were not "patients" in this case for the purposes of having patient records. Rather, they were clients of the medical spa. As such, the Panel finds for clients of the medical spa, there is no need to transfer records to a pharmacy, in fact doing so would be inappropriate for the reasons noted.

- [153] As such, Order 3 is revised as follows: Ms. Sohrabirad shall transfer any drugs she is currently storing outside of a pharmacy to a pharmacy within 30 days of receiving this written decision. For the purposes of this order, "drugs" means "drug" as defined in the PDA.
- [154] The Panel considered Orders 4, 5, 6 and 7. With respect to Ms. Sohrabirad's use of her APA, the hearing did not establish that Ms. Sohrabirad did not use her APA appropriately in supporting patients or clients. The misuse of the APA was for a specific drug, Botox, in the specific circumstances of a medical spa. There was no evidence she misused this in a pharmacy setting. Removal of her APA could have a detrimental impact on patient care in Ms. Sohrabirad's work in a pharmacy. Order 4 is revoked.
- [155] The Hearing Tribunal ordered that Ms. Sohrabirad could not serve as an owner, proprietor or licensee of a pharmacy for a period of 1 year. The Panel finds that there is no clear connection between the conduct at issue and the prohibition on serving as an owner, proprietor or licensee of a pharmacy. The conduct did not occur in a pharmacy setting. Order 5 is revoked.
- [156] The Hearing Tribunal further ordered that Ms. Sohrabirad complete the College's Licensee Education Program. The Panel finds that there is no clear connection between this order and the conduct at issue. The conduct did not occur in a pharmacy setting. Order 6 is revoked.
- [157] The Hearing Tribunal also ordered that Ms. Sohrabirad shall provide a copy of the Hearing Tribunal's decision to any pharmacy employer or licensee where she works for a period of 3 years. Given the findings regarding the lack of connection between the findings of unprofessional conduct and her work in a pharmacy, the Panel finds this order is not necessary. Order 7 is revoked.
- [158] The Panel next considered the order for costs of the hearing. The Hearing Tribunal ordered Ms. Sohrabirad to pay 25% of the costs of the investigation and hearing. The Panel finds that no costs will be ordered for the investigation and hearing.
- [159] The Panel considered that in the circumstances of this case, the conduct that was found to be proven was not so serious as to justify a significant costs award. In addition, the Panel was concerned about fairness issues in the hearing, particularly in relation to the Post-Hearing Letter.
- [160] The Panel considered that Ms. Sohrabirad took steps to try to understand the regulatory system and her obligations both as a pharmacist and in providing personal services through

her medical spa. The Panel considered that the regulatory system between the Personal Services Regulation and the pharmacy legislation and Standards of Practice can be confusing and could be clearer. In addition, the evidence showed that Ms. Sohrabirad made some inquiries of the College prior to setting up her medical spa business and that she thought she was following the regulations appropriately. She also rectified her conduct in relation to her Instagram posts and business name, once the College brought the concerns to her attention.

[161] For all of these reasons, the Panel found that no costs should be ordered against Ms. Sohrabirad for the investigation and hearing.

VIII. CONCLUSION

[162] The Panel allows Ms. Sohrabirad's appeal in part on the Merits Decision and dismisses the Complaints Director's appeal on the Merits Decision. The Panel finds the following: Allegation 1(a) is not proven; Allegation 1(b)(i), (ii) and (iii) is proven and constitutes unprofessional conduct; Allegation 1(d) is proven and constitutes unprofessional conduct; Allegation 1(b)(iv), (v) and (vi) and Allegation 2(a) and (b) are not proven.

[163] The Panel allows Ms. Sohrabirad's appeal in part on the Sanction Decision and allows the Complaints Director's appeal in part on the Sanction Decision.

[164] The Panel orders the following:

1. Ms. Sohrabirad shall receive a reprimand. This decision of the Panel will serve as the reprimand.
2. Ms. Sohrabirad shall pay a fine of \$5,000 for Allegation 1(b) and a fine of \$2,500 for Allegation 1(d) for a total fine of \$7,500 to be paid within 90 days of receiving this written decision.
3. Ms. Sohrabirad shall transfer any drugs she is currently storing outside of a pharmacy to a pharmacy within 30 days of receiving this written decision. For the purposes of this order, "drugs" means "drug" as defined in the PDA.

[165] The Panel considered the matter of costs of the appeal. The Panel directs that no costs of the appeal will be ordered. Given the partial success of both Ms. Sohrabirad and the Complaints Director in the appeal, this is an appropriate case for the parties to each bear their own costs.

Signed on behalf of the Appeal Panel of Council this 22nd day of August 2023.

Peter Macek
Peter Macek (Aug 22, 2023 17:01 MDT)
Peter Macek, Pharmacist