

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

HANNA YOO (formerly AHN)

Registration number: 12378

DECISION OF THE HEARING TRIBUNAL

May 30, 2024

I. INTRODUCTION

The Hearing Tribunal of the Alberta College of Pharmacy (the “College”) held a hearing into the conduct of Hanna Yoo (formerly Ahn). In attendance on behalf of the Hearing Tribunal were Dana Lyons (pharmacy technician and chair), Dwain Nottebrock (pharmacist), Andrew Otway (public member), and Vincent Paniak (public member).

The hearing took place virtually on May 9, 2024. The hearing was held under the terms of Part 4 of the *Health Professions Act* (“HPA”).

In attendance at the hearing were: James Krempien, Complaints Director of the College; Monica Tran, legal counsel representing the Complaints Director; Ms. Yoo, the investigated member; and Simon Renouf, legal counsel representing Ms. Yoo. Kimberly Precht was also in attendance as independent legal counsel to the Hearing Tribunal.

Margaret Morley, Hearings Director, was also present. Ms. Morely did not participate in the hearing but was available to assist in administering the virtual hearing.

There were no objections to the composition of the Hearing Tribunal, the jurisdiction of the Hearing Tribunal to proceed with the hearing, or the timeliness of service of the Notice of Hearing on Ms. Yoo, nor was there a request for a private hearing.

Three staff members of the College attended the hearing as observers. The complainant, [REDACTED] also attended, and there was no objection to [REDACTED] attending with her camera off.

II. ALLEGATIONS

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

IT IS ALLEGED THAT, while you were a registered Alberta pharmacist at Guardian Pharmacy – Trail South, you:

1. Accessed [REDACTED] Netcare record when you did not have an authorized purpose for doing so, including when,
 - a. On or about March 21, 2022, you accessed functions:
 - VIEW – Patient Demographics;
 - VIEW – P_Event_History;
 - VIEW – ImmARI, Immunization; and
 - VIEW – PIN_Med_Profile;
 - b. On or about March 22, 2022, you accessed functions:
 - VIEW – PIN_Med_Profile; and
 - VIEW – Patient Demographics;
 - c. On or about March 23, 2022, you accessed functions:
 - VIEW – PIN_Med_Profile; and
 - VIEW – Patient Demographics;

- d. On or about March 30, 2022, you accessed functions:
 - VIEW – PIN_Med_Profile; and
 - VIEW – Patient Demographics;
- e. On or about April 5, 2022, you accessed functions:
 - VIEW – PIN_Med_Profile; and
 - VIEW – Patient Demographics;
- f. On or about April 13, 2022, you accessed functions:
 - VIEW – PIN_Med_Profile; and
 - VIEW – Patient Demographics;
- g. On or about May 25, 2022, you accessed functions:
 - VIEW – PIN_Med_Profile; and
 - VIEW – Patient Demographics;
- h. On or about June 9, 2023, you accessed functions:
 - VIEW – PIN_Med_Profile; and
 - VIEW – Patient Demographics;
 - VIEW – P_Event_History;
 - VIEW – ImmARI, Immunization;
 - VIEW – Dynamic Flowsheet;
 - VIEW – LabResultsFlowSheet; and
 - VIEW – cResults. Flow Sheet.

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

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

- Standard 1 and Sub-standards 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians;
- Principles 4(4 and 5) and 10(1) of the Alberta College of Pharmacy's Code of Ethics; and
- Sections 25 and 107(2)(a) and (b) of the *Health Information 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)(ii), 1(1)(pp)(iii) and 1(1)(pp)(xii) of the *Health Professions Act*.

Ms. Yoo acknowledged and admitted that she engaged in unprofessional conduct as set out in the Notice of Hearing.

III. **EVIDENCE**

The Complaints Director and Ms. Yoo presented the Hearing Tribunal with an Agreed Statement of Facts, setting out the information and documentation they considered relevant to the allegations against Ms. Yoo. The Agreed Statement of Facts was entered as **Exhibit 1**, which also included the Notice of Hearing and Ms. Yoo's Admission of Unprofessional Conduct.

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

At all relevant times Ms. Yoo was a registered member of the College on the clinical pharmacist register and pharmacist at Guardian Pharmacy – Trial South (the “Pharmacy”). In response to a question from the Hearing Tribunal, Mr. Renouf confirmed that Ms. Yoo owned the Pharmacy and was its licensee – this was not in the Agreed Statement of Facts but was a matter of public record.

The Complaints Director received a complaint against Ms. Yoo on October 18, 2023 from [REDACTED]. In her complaint, [REDACTED] advised that she had obtained her Alberta Netcare Log and discovered that Ms. Yoo accessed [REDACTED] personal and health information without [REDACTED] knowledge on multiple occasions between March 21, 2022 and June 9, 2023. [REDACTED] had never visited the Pharmacy, and Ms. Yoo had never been [REDACTED] healthcare provider.

In the complaint, a copy of which was attached to the Agreed Statement of Facts, [REDACTED] stated that Ms. Yoo's actions left her feeling violated, anxious, and deeply concerned about the security of her private medical information. As a result of this incident, [REDACTED] experienced a significant decline in her mental well-being, including heightened anxiety, depression, and paranoia. This was supported by a letter from [REDACTED] family physician, which [REDACTED] submitted with her complaint.

The complaint was investigated, which included a phone conversation between the Complaints Director and Ms. Yoo on October 19, 2023, a written response to the complaint from Ms. Yoo's legal counsel on November 16, 2023, and an interview of Ms. Yoo (with her legal counsel present) by the College's investigator on December 7, 2023. Notes from the phone conversation and interview, as well as the letters exchanged by the Complaints Director and Ms. Yoo's legal counsel, were attached as exhibits to the Agreed Statement of Facts.

During the investigation, Ms. Yoo acknowledged that [REDACTED] was not and had never been a patient of Ms. Yoo or the Pharmacy, and that Ms. Yoo accessed [REDACTED] health information on the dates indicated in the Netcare Log provided by [REDACTED].

In the Agreed Statement of Facts, Ms. Yoo confirmed she accessed [REDACTED] health information without an authorized purpose. The Agreed Statement of Facts also noted that there was no allegation before the Hearing Tribunal that Ms. Yoo otherwise used or further disclosed the health information she accessed without an authorized purpose.

At the conclusion of the Agreed Statement of Facts, Ms. Yoo acknowledged she received legal advice before entering the Agreed Statement of Facts and understood the Hearing Tribunal may use the Agreed Statement of Facts as proof of the allegations set out in the Notice of Hearing and in considering appropriate sanctions.

The Hearing Tribunal noted that the exhibits attached to the Agreed Statement of Facts included more detailed information about [REDACTED] complaint, about the impact of Ms. Yoo's conduct on [REDACTED] and about Ms. Yoo's explanations for her conduct than the Agreed Statement of Facts itself. The Hearing Tribunal asked the parties to clarify the purpose for which they were providing the information in the exhibits, and whether they were asking the Hearing Tribunal to accept the information in the exhibits as factual or whether it was simply being provided as context about the process that was followed in this case. On behalf of the Complaints Director, Ms. Tran advised that the information in the exhibits was evidence as to Ms. Yoo's conduct but that it was "hearsay evidence" and so the Hearing Tribunal would have to give it appropriate weight. Mr. Renouf agreed with Ms. Tran's submission.

One of the exhibits to the Agreed Statement of Facts was a memo summarizing the College investigator's interview of Ms. Yoo on December 7, 2023. Both Ms. Yoo and Mr. Renouf attended the interview, which took place virtually. According to the interviewer's memo, Ms. Yoo provided several explanations for her unauthorized access of [REDACTED] Netcare records. Ms. Yoo indicated that she had never met [REDACTED] but that [REDACTED] had many Instagram followers and was like a "celebrity" to Ms. Yoo. Ms. Yoo also indicated that [REDACTED] husband was a pharmacist at a new medical clinic and pharmacy, to which many of Ms. Yoo's patients were transferring their care. Ms. Yoo also attributed her actions to "curiosity". Finally, Ms. Yoo referred to her behaviour as a "clicking habit" which had resulted in a "big problem" and a "terrible feeling". Ms. Yoo expressed remorse and stated she was now more careful with Netcare. Despite the parties' submission that such information was "hearsay evidence", the Hearing Tribunal did not receive any submissions or contradictory evidence that would cause it to put less weight on these explanations. If the investigator's summary was inaccurate, Ms. Yoo and Mr. Renouf were well-positioned to correct this information or provide an alternative explanation in the Agreed Statement of Facts, and they did not.

In the Admission of Unprofessional Conduct, Ms. Yoo admitted the allegations set out in the Notice of Hearing. Ms. Yoo also acknowledged that her conduct breached her statutory and regulatory obligations to the College, undermined the integrity of the of the profession, decreased the public's trust in the profession, and failed to fulfil the professional and ethical judgment expected and required of an Alberta pharmacist.

Ms. Yoo further agreed and acknowledged that her conduct constituted unprofessional conduct as defined in sections 1(1)(pp)(ii), 1(1)(pp)(iii) and 1(1)(pp)(xii) of the HPA and breached Standard 1 and Sub-standards 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians, Principles 4(4), 4(5) and 10(1) of the College's Code of Ethics, and sections 25 and 107(2)(a) and (b) of the *Health Information Act*.

IV. SUBMISSIONS

On behalf of the Complaints Director, Ms. Tran submitted that the Hearing Tribunal's role was to determine whether the allegation set out in the Notice of Hearing was proven on a balance of probabilities and, if so, to determine whether the proven conduct was unprofessional conduct. Ms. Tran submitted that Ms. Yoo has admitted the allegation and the parties have worked together to provide an Agreed Statement of Facts, and there is more than enough

evidence for the Hearing Tribunal to accept the Agreed Statement of Facts and the Admission of Unprofessional Conduct and make a finding of unprofessional conduct.

Ms. Tran submitted the reason for this hearing was because pharmacists have an obligation to uphold the letter and the spirit of the law governing the profession, and Ms. Yoo failed to do so when she accessed [REDACTED] Netcare records. This obligation is set out in Sub-standards 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians and Principle 10(1) of the Code of Ethics.

Ms. Tran also emphasized Principles 4(4) and (5) of the Code of Ethics, which provide that a pharmacist may only use information obtained in the course of professional practice for the purposes for which it was obtained, unless otherwise authorized by law, and may seek only information that is necessary to make informed decisions about a patient's health, unless otherwise authorized by law. Ms. Yoo had no authorized purpose for accessing [REDACTED] health information.

Ms. Tran also brought the Hearing Tribunal's attention to relevant sections of the *Health Information Act*. Section 25 states that no custodian shall use health information except in accordance with the *Act*, while s. 107(2)(a) and (b) make it an offence to knowingly collect, use, disclose, or create health information in contravention of the *Act*, or to knowingly gain or attempt to gain access to health information in contravention of the *Act*. Ms. Yoo is a custodian under the *Health Information Act*. When Ms. Yoo accessed [REDACTED] health information, it was not in accordance with the *Act*.

Ms. Tran emphasized Ms. Yoo's acknowledgment that her conduct in accessing [REDACTED] Netcare record rises to the level of unprofessional conduct. Ms. Tran also submitted that there was no suggestion Ms. Yoo had acted in bad faith or used any of the information she accessed for an improper purpose and noted Ms. Yoo's cooperation in reaching an Agreed Statement of Facts.

On behalf of Ms. Yoo, Mr. Renouf endorsed Ms. Tran's submissions. Mr. Renouf advised the Hearing Tribunal that it had been a very straightforward matter to reach an Agreed Statement of Facts on behalf of Ms. Yoo.

V. FINDINGS

The Hearing Tribunal accepted Ms. Yoo's admission, finding the allegation in the Notice of Hearing was factually proven on a balance of probabilities and amounted to unprofessional conduct.

In determining that the allegation was proven, and that Ms. Yoo's admission should be accepted, the Hearing Tribunal carefully considered the Agreed Statement of Facts entered into by the parties, the Admission of Unprofessional Conduct, and the parties' submissions.

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

The Agreed Statement of Facts and attached exhibits clearly establish that Ms. Yoo accessed [REDACTED] health information on the dates indicated, without any authorization purpose for doing so. The Netcare Log showing the occasions on which Ms. Yoo accessed [REDACTED] information was attached to the Agreed Statement of Facts and showed that Ms. Yoo accessed [REDACTED] Netcare record on each of the dates set out in the Notice of Hearing. Given that [REDACTED] had never been Ms. Yoo's patient and had never visited Ms. Yoo's pharmacy, it was clear there was no authorized purpose for Ms. Yoo to access [REDACTED] Netcare record. The factual allegation set out in the Notice of Hearing is clearly established.

As referenced in the Notice of Hearing, the HPA defines unprofessional conduct to include a contravention of the HPA, a code of ethics or standards of practice (s. 1(1)(pp)(ii)), contravention of another enactment that applies to the profession (s. 1(1)(pp)(iii)) and conduct that harms the integrity of the regulated profession (s. 1(1)(pp)(xii)).

The Hearing Tribunal was satisfied that Ms. Yoo's conduct in repeatedly accessing [REDACTED] health information contravened the College's Code of Ethics and Standards of Practice, as well as the *Health Information Act*. As set out in Sub-section 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians and Sub-section 10(1) of the Code of Ethics, pharmacists are required to uphold the letter and spirit of the law governing the profession, including the law concerning access to individuals' health information. Section 25 of the *Health Information Act* prohibits a custodian of health information, such as Ms. Yoo, from using health information except in accordance with the *Act*. Section 27 of the *Health Information Act* sets out the purposes for which a custodian may use individually identifying health information. None of the purposes set out in the *Health Information Act* applied when Ms. Yoo accessed [REDACTED] health information. The expectation that pharmacists only access or use health information for authorized purposes is also made clear in Sub-sections 4(4) and 4(5) of the Code of Ethics, which set out limits on the information pharmacists may seek and how pharmacists may use information obtained while practicing.

The Hearing Tribunal was concerned by the various explanations Ms. Yoo provided for her conduct when she was interviewed on December 7, 2023. None of the explanations Ms. Yoo provided are acceptable reasons for a pharmacist to access an individual's health information. Ms. Yoo's conduct undermined the integrity of the profession because their decisions undermined both the intent and spirit of the regulations that are established to protect the public and as a consequence erodes the trust that the public places in the profession.

On this basis, the Hearing Tribunal concluded Ms. Yoo's conduct amounted to unprofessional conduct worthy of sanction.

VI. SUBMISSIONS ON ORDERS

The Complaints Director and Ms. Yoo presented a Joint Submission on Sanctions to the Hearing Tribunal, asking the Hearing Tribunal to make the following orders under s. 82 of the HPA:

1. Ms. Yoo shall receive a reprimand, which the Hearing Tribunal's written decision shall serve as.
2. Ms. Yoo shall, within 12 months from the date the Hearing Tribunal issues its written decision, provide evidence to satisfy the Complaints Director that she has received an unconditional pass on the Center for Personalized Education for Professionals (CPEP) Probe Course. If Ms. Yoo fails to provide evidence to satisfy the Complaints Director that she has received an unconditional pass on the CPEP Probe Course within 12 months of the date the Hearing Tribunal issues its written decision, her practice permit shall be suspended until such time as the Complaints Director is satisfied that an unconditional pass has been received.
3. Ms. Yoo's practice permit shall be suspended for three months, with:
 - a. One month to be served on dates acceptable to the Complaints Director and completed within six months from the date the Hearing Tribunal issues its written decision; and
 - b. Two months to be held in abeyance pending there being no further privacy concerns coming to the attention of the Complaints Director and referred to an investigation for a period of two years from the date the Hearing Tribunal issues its written decision.

If the Complaints Director receives and directs an investigation into a new complaint about Ms. Yoo related to privacy concerns within two years from the date the Hearing Tribunal issues its written decision, the Complaints Director shall be at liberty to impose the remaining two-month suspension on Ms. Yoo's practice permit. If no further privacy concerns come to the attention of the Complaints Director that are referred to an investigation for a period of two years from the date the Hearing Tribunal issues its written decision, the remaining two-month suspension shall expire.

4. Ms. Yoo shall provide a copy of the Hearing Tribunal's written decision in this matter to any pharmacy employer or licensee of a pharmacy in which she works for a period of two years, commencing on the date she receives a copy of the Hearing Tribunal's written decision.
5. Ms. Yoo shall be responsible for payment of 50 percent of the costs of the investigation and hearing to a maximum of \$8,000. Payment will occur in accordance with a payment schedule satisfactory to the Hearings Director. The costs shall be paid within 24 months of the date Ms. Yoo receives a copy of the Hearing Tribunal's written decision.

The Joint Submission on Sanctions and supporting materials were entered as **Exhibit 2**.

On behalf of the Complaints Director, Ms. Tran submitted that the fundamental purpose of sanctions in the professional discipline context is to ensure the public is protected from acts of unprofessional conduct, citing James Casey's text, *Regulation of Professions in Canada*. Relevant factors include specific deterrence of the member from engaging in further misconduct, general deterrence of other members of the profession, the need to maintain the

public's confidence in the profession's ability to properly supervise the conduct of its members, and ensuring the penalty imposed is not disparate with penalties imposed in similar cases.

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

- *Nature and gravity of the proven allegations:* Accessing Netcare records without an authorized purpose is serious. Pharmacists are entrusted with access to individuals' health information so that they can carry out their professional duties. Ms. Yoo disregarded the trust granted to her, harming the integrity of her profession. At the same time, Ms. Tran submitted this was not one of the more egregious examples of unprofessional conduct, because there was no evidence that Ms. Yoo made further use of the information she accessed.
- *Age and experience:* Ms. Yoo has been a regulated member since 2015, so her age and experience are not a mitigating factor. In any event, any professional regardless of age or experience should have known better than to act as Ms. Yoo did.
- *Character and prior findings of unprofessional conduct:* Ms. Yoo has no prior findings of unprofessional conduct. This is a mitigating factor.
- *Age and vulnerability of complainant:* ■■■ was not a minor and was not an especially vulnerable complainant.
- *Number of times conduct occurred:* Ms. Yoo accessed ■■■ health information on eight separate occasions, which is an aggravating factor.
- *Taking responsibility:* To her credit, Ms. Yoo acknowledged her error as soon as the complaint was brought to her attention, and has cooperated with the Complaints Director, allowing the hearing to proceed efficiently.
- *Impact on complainant:* Ms. Tran noted the evidence that ■■■ stated these events left her feeling violated and vulnerable, and resulted in a significant decline in her mental health and well-being.
- *Deterrence:* Ms. Tran explained that there are two aspects of deterrence. The first is ensuring Ms. Yoo does not repeat her misconduct; the second is sending a message to other members of the profession that this kind of conduct is unacceptable.
- *Message to legislators and public:* Ms. Tran submitted that the orders imposed by the Hearing Tribunal should send a message to the public and the legislature that the College takes regulation of the profession seriously, and that failure to meet the expectations for the profession will be met with serious consequences.

- *Range of sanctions in similar cases:* Although the Hearing Tribunal is not bound by previous cases, out of fairness to members, similar sanctions should be applied in similar cases. Ms. Tran provided four previous cases involving similar conduct by members of the College: Decision of the Hearing Tribunal regarding Ravi Chawla, dated March 22, 2022; Decision of the Hearing Tribunal regarding Soosai Stanislaus, dated October 25, 2021; Decision of the Hearing Tribunal regarding Shemina Juma, dated September 25, 2020; and Decision of the Hearing Tribunal regarding Kyle Kostyk, dated December 21, 2017. Similar sanctions were ordered in these cases to what the parties proposed in this case. Ms. Tran noted that an additional sanction was imposed in the Juma case because Ms. Juma had accessed the electronic health records of 11 individuals, and an additional fine was imposed in the Kostyk case because Mr. Kostyk had used the private health information he accessed to pursue a personal encounter with the individual, and there was an additional professional boundary violation.

With respect to costs, Ms. Tran submitted that both parties had agreed Ms. Yoo's conduct was serious unprofessional conduct warranting an order for Ms. Yoo to pay some of the costs of the investigation and hearing. Ms. Tran submitted that the proposed costs order was in line with the cases presented. Ms. Tran submitted that it was appropriate to require Ms. Yoo to pay 50 percent of the total costs, while capping the costs order against Ms. Yoo at the same level of the other cases. Ms. Tran also referred to the Alberta Court of Appeal's decision in *Jinnah v Alberta Dental Assn. and College*, 2022 ABCA 336, submitting that costs were justified under the test set out in that decision because Ms. Yoo's must have known her conduct was unacceptable, and she engaged in the conduct multiple times.

Ms. Tran advised the Hearing Tribunal was required to show deference to the Joint Submission on Sanctions and could only stray from it if the proposed sanctions were drastically against the public interest, citing the Supreme Court of Canada's decision in *R v Anthony-Cook*, 2016 SCC 43 and the Ontario Superior Court of Justice's decision in *Bradley v Ontario College of Teachers*, 2021 ONSC 2303. Ms. Tran emphasized that, from the Complaints Director's perspective, the proposed sanctions were appropriate and protected the public, and were sufficiently serious to provide specific deterrence for Ms. Yoo as well as general deterrence for other members of the profession who will learn of this decision.

On behalf of Ms. Yoo, Mr. Renouf advised the Hearing Tribunal he fully endorsed Ms. Tran's submissions as being totally consistent with Ms. Yoo's instructions to him. Mr. Renouf emphasized Ms. Yoo's cooperation during the investigation, including by immediately acknowledging her conduct to Mr. Krempien when the complaint was brought to her attention. Mr. Renouf submitted that Ms. Yoo voluntarily entered into the Agreed Statement of Facts and Joint Submission on Penalty as a reflection of her recognition that she contravened ethical requirements of the profession.

Mr. Renouf also pointed out that many of the specific pages Ms. Yoo accessed within [REDACTED] Netcare records were accessed for a second or less, while most were for a minute or two. Mr. Renouf emphasized that this does not detract from Ms. Yoo's accesses being unprofessional conduct or improper, noting her explanation to the College that her behaviour was "compulsive" and that she was in the habit of "clicking". However, he submitted that once Ms. Yoo became aware of the complaint, she realized the significance of not complying with the *Health Information Act* and the College's Code of Ethics.

Mr. Renouf stated that Ms. Yoo had asked him to indicate on her behalf that she was sorry for her conduct, and that she wanted to express that to [REDACTED]. Since the complaint, Ms. Yoo has become much more cautious and careful to ensure she is not violating anyone's privacy. Mr. Renouf also expressed appreciation to Mr. Krempien and Ms. Tran, on behalf of Ms. Yoo, for allowing this matter to be dealt with in this constructive way.

In response to questions from the Hearing Tribunal, the parties confirmed that the cost of the CPEP Probe Course, for which Ms. Yoo would be responsible, is currently \$1,875 US plus tax. The parties also advised that Ms. Yoo anticipates serving the one-month suspension in August 2024, and has been in contact with the College about what steps she must take to hire a pharmacist to work at her pharmacy during that period.

The parties also confirmed that, because Ms. Yoo is the owner and licensee of her pharmacy, as of today there is no one to whom Ms. Yoo would need to provide a copy of the Hearing Tribunal's decision to comply with paragraph 4 of the proposed orders. The Hearing Tribunal asked whether its written decision would be published on the College's website, to which the parties responded that this was a matter for the College's Registrar to decide under section 81 of the College's bylaws.

After further deliberation, the Hearing Tribunal returned with a further question for the parties. The Hearing Tribunal noted that the parties had provided four previous decisions of the College with similar unprofessional conduct, and while none of those decisions specifically addressed publication, all four decisions are published on the College's website. The Hearing Tribunal also observed that the College's website states: "Hearing tribunal decisions under Part 4 of the *Health Professions Act* are posted on this site for 10 years." The Hearing Tribunal asked if there was any reason to expect its decision in this matter would be handled differently than in these four previous decisions, and asked Ms. Yoo for confirmation that she did not intend to ask that its decision not be published, or that the published decision not identify Ms. Yoo. In response, Ms. Tran advised she saw no reason why this matter would be treated differently, and Mr. Krempien added that he was aware of only one case in which a hearing tribunal decision had not been published. Mr. Renouf confirmed he had discussed publication with Ms. Yoo and that Ms. Yoo understood the decision would likely be published by the Registrar and would identify Ms. Yoo.

VII. ORDERS

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

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

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

The Hearing Tribunal agreed with the parties that Ms. Yoo's conduct was serious enough to warrant a suspension. Repeatedly accessing an individual's Netcare records without an authorized purpose is a serious breach of the standards to which pharmacists are rightly held. Understandably, Ms. Yoo's conduct had a significant negative impact on ■■■ when ■■■ learned of it. Satisfying one's curiosity or indulging in a "clicking" habit is no excuse for a pharmacist to access an individual's Netcare records.

The Hearing Tribunal also recognized several mitigating factors that supported the relatively brief suspension proposed by the parties, with all but one month of the proposed suspension being held in abeyance unless the Complaints Director receives and investigates a similar complaint against Ms. Yoo within the next two years. Most notably, Ms. Yoo has had no previous findings of unprofessional conduct against her, and upon learning of this complaint she promptly acknowledged her mistake and cooperated with the Complaints Director by admitting her unprofessional conduct and entering an agreed statement of facts and a joint submission on sanction. Ms. Yoo's admission and cooperation allowed the hearing to proceed efficiently, without the need to call any witnesses.

The Hearing Tribunal agreed it was fair and appropriate to require Ms. Yoo to bear the not-insignificant cost of the CPEP Probe Course, and to require Ms. Yoo to provide evidence of an unconditional pass on the course. The orders imposed by the Hearing Tribunal should send a message to the public and the legislature that the College takes regulation of the profession seriously, and that failure to meet the expectations for the profession will be met with serious consequences.

The proposed order that gave the Hearing Tribunal some pause was the requirement for Ms. Yoo to provide a copy of this decision to any pharmacy employer or licensee of a pharmacy in which she works for the next two years. In response to the Hearing Tribunal's questions, the parties confirmed this proposed order does not currently require Ms. Yoo to do anything, because Ms. Yoo is the owner and licensee of the pharmacy where she works. As such, this proposed order will not provide any enhanced accountability for Ms. Yoo unless her circumstances change significantly in the next two years. Based on the parties' responses to the Hearing Tribunal's further questions about publication of its decision on the College's website, the Hearing Tribunal has a high degree of confidence that the Registrar *will* publish the decision and that the published decision will identify Ms. Yoo. The Hearing Tribunal is satisfied that this will provide the transparency and accountability that is not explicitly provided in the proposed orders. Otherwise, the Hearing Tribunal would have seriously questioned whether the proposed orders were contrary to the public interest.

Finally, the Hearing Tribunal accepted the parties' submissions on costs, recognizing that costs are an inevitable part of self-regulation and that while it is acceptable for the College to recover some of these costs back from disciplined members, the College must also accept some of the burden of the costs of regulation. The Hearing Tribunal did not receive submissions on the actual cost of the investigation and hearing, of which the parties proposed that Ms. Yoo pay half. However, the Hearing Tribunal was comfortable accepting the parties' proposal because it was capped so that Ms. Yoo would not be required to pay more than \$8,000 of the total investigation and hearing costs. The Hearing Tribunal considered this a reasonable maximum amount for Ms. Yoo to pay.

Accordingly, the Hearing Tribunal orders as follows:

1. This written decision shall serve as a reprimand to Ms. Yoo.
2. Ms. Yoo shall, within 12 months from the date the Hearing Tribunal issues its written decision, provide evidence to satisfy the Complaints Director that she has received an unconditional pass on the Center for Personalized Education for Professionals (CPEP) Probe Course. If Ms. Yoo fails to provide evidence to satisfy the Complaints Director that she has received an unconditional pass on the CPEP Probe Course within 12 months of the date the Hearing Tribunal issues its written decision, her practice permit shall be suspended until such time as the Complaints Director is satisfied that an unconditional pass has been received.
3. Ms. Yoo's practice permit shall be suspended for three months, with:
 - a. One month to be served on dates acceptable to the Complaints Director and completed within six months from the date the Hearing Tribunal issues its written decision; and
 - b. Two months to be held in abeyance pending there being no further privacy concerns coming to the attention of the Complaints Director and referred to an investigation for a period of two years from the date the Hearing Tribunal issues its written decision.

If the Complaints Director receives and directs an investigation into a new complaint about Ms. Yoo related to privacy concerns within two years from the date the Hearing Tribunal issues its written decision, the Complaints Director shall be at liberty to impose the remaining two-month suspension on Ms. Yoo's practice permit. If no further privacy concerns come to the attention of the Complaints Director that are referred to an investigation for a period of two years from the date the Hearing Tribunal issues its written decision, the remaining two-month suspension shall expire.

4. Ms. Yoo shall provide a copy of the Hearing Tribunal's written decision in this matter to any pharmacy employer or licensee of a pharmacy in which she works for a period of two years, commencing on the date she receives a copy of the Hearing Tribunal's written decision.
5. Ms. Yoo shall be responsible for payment of 50 percent of the costs of the investigation and hearing to a maximum of \$8,000. Payment shall occur in accordance with a payment schedule satisfactory to the Hearings Director. The costs shall be paid within 24 months of the date Ms. Yoo receives a copy of the Hearing Tribunal's written decision.

Signed on behalf of the Hearing Tribunal by the Chair on May 30, 2024.

Per: *Dana Lyons*
Dana Lyons (May 30, 2024 22:03 MDT)
Dana Lyons