

ALBERTA COLLEGE OF PHARMACISTS

IN THE MATTER OF
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF THAI CHAU

DECISION OF THE HEARING TRIBUNAL

February 3, 2014

I. INTRODUCTION

The hearing tribunal held a hearing into the conduct of Mr. Thai Chau. The hearing tribunal consisted of Mr. Jim Johnston, Chairperson; Ms. Sherilyn Houle, Pharmacist; Mr. Tony Nickonchuk, Pharmacist and Ms. Sandra Pichler, Public Member.

The hearing took place on November 8, 2013 at the office of the Alberta College of Pharmacists (ACP) located in Edmonton, AB. The hearing was held under the terms of Part 4 of the *Health Professions Act*.

In attendance at the hearing were Mr. James Krempien, Complaints Director; Mr. David Jardine, counsel for the Alberta College of Pharmacists; Mr. Thai Chau, investigated member; Mr. Kenneth Fitz, counsel for the investigated member; Ms. T.L. Reid, Court Reporter and Mr. Gregory Sim, independent counsel for the hearing tribunal.

There were no objections to the composition of the hearing tribunal or the jurisdiction of the hearing tribunal to proceed with a hearing.

II. ALLEGATIONS

The Notice of Hearing was entered as Exhibit 1, and stated the following:

IT IS ALLEGED THAT:

1. You breached your January 28, 2011 Professional Undertaking Agreement and December 18, 2012 Amendment by not properly participating in the Aftercare program administered by Canniff and Associates and in doing so your breach constitutes an admission of unprofessional conduct regarding the occurrences recognized in ACP Complaint 1752 and the Amendment;
2. You did not comply with aspects of your Aftercare Agreement including:
 - a. not abstaining from non-prescribed narcotics, including the methadone you obtained from an illegal source, and
 - b. not properly disclosing to Canniff and Associates your use of prescription medications;
3. You repeated your conduct of diverting and misusing controlled substances as a result of a relapse with your substance abuse issues. You diverted a small amount (less than 5 doses each) of chloral hydrate, Dexedrine, oxycodone and Darvon, and methadone for your personal use during the November 2012 to January 2013 period;

4. You represented to Mr. Choy and the ACP that you were a regulated member and in good standing while your practice permit was cancelled as evidenced in the Application for Pharmacy Licensee Change form that you completed and Mr. Choy submitted on February 26, 2013 and through your conversations with Mr. Choy;
5. As the former licensee of Millwoods Pharmacy, you failed to properly secure the narcotics of the pharmacy; and
6. Your conduct created an environment that had the real potential to have created patient harm.

IT IS ALLEGED THAT your conduct constitutes a breach of the following statutes, regulations, 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;
- Sections 1(1)(pp)(ii), 1(1)(pp)(iii), 1(1)(iv) and 1(1)(pp)(xii) of the *Health Professions Act*;
- Standards 1, 5 and Sub-standards 1.1, 1.2, 5.11 and 5.12 of the Standards for the Operation of Licensed Pharmacies;
- Sections 1(1)(p)(i), 1(1)(p)(ii), 1(1)(p)(iv), 1(1)(p)(ix), 10(1)(a), 10(1)(d)(i), 31(2)(a) and 38 of the *Pharmacy and Drug Act*;
- Principles X(1) and XI(2, 4 and 5) of the ACP Code of Ethics;
- Section 4(1) of the *Controlled Drugs and Substances Act*; and
- Section 31(1) of the Narcotic Control Regulations.

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

III. PRELIMINARY MATTERS

This hearing was originally scheduled for September 5, 2013 but was adjourned by consent with college counsel at the request of the member's counsel.

At the outset of the hearing Mr. Jardine advised the hearing tribunal that the complaints director would not be proceeding with Allegation 4.

IV. EVIDENCE

Mr. Jardine made a brief opening statement. He stated that he would be calling Mr. Krempien, Complaints Director, as a witness to give evidence of the background facts. Mr. Jardine then indicated that they would be presenting an Admission of Unprofessional Conduct by Mr. Chau for several of the allegations. Mr. Jardine explained that the admissions of Allegation 2 and 5 would be slightly modified from the allegations. Mr. Jardine also advised that there would be no admission for Allegation 6.

Regarding Allegation 6, Mr. Jardine indicated that the college would not be adducing any direct evidence of any complaints to the college from patients, but the evidence would show that Mr. Chau consumed prescription medications at a time when he was regularly working as a registered pharmacist and that this in itself had the potential to cause patient harm. Mr. Jardine explained that Mr. Chau created this situation and it was more probable than not that the potential for patient harm existed and this constituted unprofessional conduct.

Mr. Fitz made his opening statement and agreed with Mr. Jardine that Mr. Chau was in agreement that certain things happened that should not have happened and that he is prepared to directly face the consequences of those actions. Mr Fitz confirmed that Mr. Chau would be admitting to some of the allegations. With respect to Allegation 6, he confirmed that it would be contested. Mr. Fitz argued that Mr. Chau did not practice while impaired and that the college did not have any evidence to prove otherwise.

At this time, the Admission of Unprofessional Conduct document was submitted as Exhibit 3. The hearing tribunal notes that Mr. Chau has admitted to Allegations 1, 2, 3 and 5 in Exhibit 3. It was noted that Mr. Chau admitted to Allegation 2(a) with some slight modifications to the particulars of the allegation and that he admitted to Allegation 5 with additional particulars of his conduct. Mr. Chau did not admit to Allegation 4, which Mr. Jardine had indicated would not be pursued, or Allegation 6. This admission document can be found in Appendix A

Mr. Jardine called Mr. Krempien, Complaints Director as his first and only witness. Mr. Krempien established the following key points in his direct evidence:

- Mr. Chau has had difficulties with substance abuse since at least 2007.
- Mr. Chau has been participating in monitoring and recovery programs and aftercare programs and agreements, including regular drug screenings, with the college for a number of years.
- Mr. Chau has previously suffered relapses whereby he consumed small quantities of prescription drugs without having a prescription.

- A relapse in early 2011 resulted in a professional undertaking agreement including an extended monitoring program, aftercare agreement and admissions of unprofessional conduct.
- In early 2013, Mr. Krempien was notified under the aftercare agreement that Mr. Chau had attended a support group meeting in a state of impairment.
- In late January 2013 Mr. Krempien received notice of a positive drug screen.
- When confronted, Mr. Chau agreed to attend an outpatient addictions program and to the cancellation of his practice permit to allow him to focus on the treatment.
- Mr. Krempien did not believe that he could address these ongoing problems by a further amendment to the undertaking and aftercare agreement, so he commenced an investigation under the *Health Professions Act* and appointed himself as investigator.
- Mr. Krempien reviewed triplicate prescription records and wholesale pharmacy transaction records. He also inspected Mr. Chau's pharmacy records.
- Mr Krempien determined that there was no evidence that Mr. Chau was altering records to conceal any diversion of narcotics or that he was diverting narcotics for other than personal consumption. Mr. Krempien did discover a number of discrepancies in the pharmacy narcotics records.
- Regarding Allegation 6, Mr. Krempien explained that he had no evidence of patient complaints. He also fairly acknowledged that he had not looked at the pharmacy schedules and attempted to correlate them with the records of Mr. Chau's positive drug screens to determine whether he was impaired at work.
- Mr. Krempien explained that Allegation 6 was based on the fact that Mr. Chau was working on a full-time basis during the same time frame that he was providing samples containing positive drug screens.

Exhibit 4 was a binder of materials that Mr. Krempien referred to during his testimony. Set out below is a summary of the key documents entered at the hearing as part of Exhibit 4:

Exhibit 4

Preliminary Document

Sequence of Events Report – This document contains a summary of Mr. Krempien's investigation, his analysis of the evidence obtained during his investigation and his conclusion that this matter needed to be referred to the hearings tribunal.

Tab 1

Correspondence from Dr. C. Els to Mr. Merv Blair, previous complaints director for the college. The letter indicates that Dr. Els had Mr. Chau as a patient and would be referring him to Canniff

and Associates for a monitoring and recovery program related to his addictions.

- Tab 5 Copy of the Aftercare Agreement between Mr. Chau, the Alberta College of Pharmacists, and Canniff and Associates dated February 1, 2009.
- Tab 6 Several documents related to ACP Complaint File 1752 including a letter to Mr. Chau dated January 28, 2011. A complaint was initiated from a positive drug screen reported by Canniff and Associates. This complaint was resolved with an amended Aftercare Agreement dated January 28, 2011.
- Tab 12 Typed transcript of a telephone conversation on November 20, 2012 between Canniff and Associates and Mr. Krempien regarding an incident that occurred with Mr. Chau during a support group meeting. It states that Mr. Chau admitted to diverting and using some chloral hydrate.
- Tab 15 Copy of an amendment to the January 25, 2011 Professional Undertaking Agreement dated December 18, 2012. This amendment extended the length of the agreement to January 25, 2014.
- Tab 16 and 17 Information from Canniff and Associates shared with Mr. Krempien regarding positive drug screens from Mr. Chau on January 10, 2013 for benzodiazepines, amphetamines, oxycodone, methadone metabolites and venlafaxine.
- Tab 18 Email from Mr. Chau to Mr. Krempien dated January 18, 2013 in which he voluntarily withdraws his practice permit.
- Tab 21 Complaint Referral Form. Mr. Krempien felt that he could no longer amend agreements and started a new complaint (2939) and named himself as investigator.
- Tab 24 Records from the College of Physicians and Surgeons' Triplicate Prescription Program of prescriptions dispensed at Mr. Chau's pharmacy from January 28, 2012 to January 28, 2013.
- Tab 28 Records from McKesson Canada listing narcotics sold to Mr. Chau's pharmacy from January 28, 2012 to January 28, 2013.
- Tab 31 Notes regarding an onsite visit of Millwoods Pharmacy that was conducted by James Krempien and Jennifer Voice on February 1, 2013. Also contains records of the Drug Inventory History report from Kroll.

Mr. Krempien gave no further direct evidence and Mr. Fitz did not have any questions for him in cross-examination. Mr. Krempien was then excused.

Mr. Jardine did not call any other witnesses.

Mr. Fitz did not call any evidence on behalf of the investigated member.

V. SUBMISSIONS

The hearing tribunal then heard submissions from Mr. Jardine. Mr. Jardine first indicated that Allegations 1, 2, 3 and 5 were proven and did indeed constitute unprofessional conduct on a balance of probabilities based on the evidence before the hearing tribunal and based on the admissions that were provided by Mr. Chau.

Regarding Allegation 6, Mr. Jardine argued that the complaints director was advancing the allegation based on Mr. Krempien's evidence. It was acknowledged that there was no evidence that Mr. Chau was impaired while on duty. There was also no evidence regarding the duration of impairment from any of the medications Mr. Chau had admittedly consumed.

Mr. Fitz then made his submissions. He did not have any comments about any of the allegations except Allegation 6. He indicated that this allegation is a point of pride from the perspective of Mr. Chau. He indicated that there have been no patient complaints, no evidence of practice errors and no evidence that Mr. Chau's conduct at any time jeopardized any of his patients. He also highlighted statements in Exhibit 4 in which Mr. Chau claimed he did not practice while impaired.

VI. FINDINGS

The hearing tribunal carefully considered the evidence presented during the hearing and the submissions from both the complaints director and the member. The hearing tribunal makes the following findings:

With respect to Allegations 1, 2, 3 and 5 the tribunal accepts the admissions and finds that Mr. Chau did commit unprofessional conduct as defined in Section 1(1)(pp) of the *Health Professions Act*.

The tribunal makes no findings in relation to Allegation 4, which the complaints director indicated would not be pursued.

With respect to Allegation 6 which alleged: "Your conduct created an environment that had the real potential to have created patient harm," the tribunal determined that based on the balance of probabilities, the evidence did not prove this point.

The complaints director relied solely on the fact that Mr. Chau admitted to abusing narcotics within the same time that he was working as a licensed pharmacist for Allegation 6. The complaints director did not have any specific evidence that Mr. Chau was working while impaired, nor did they have any evidence of patients being harmed or dispensing errors that occurred during this time. While the tribunal agrees that practicing while impaired does have the potential to cause harm, there was no evidence that Mr. Chau was impaired while at work. Because of these reasons, the tribunal was not satisfied that the allegation was proven on a balance of probabilities so Allegation 6 is dismissed.

VII. ORDERS

After sharing its findings with the parties, the hearing tribunal moved directly into the sanction phase of the hearing. Mr. Jardine indicated that the parties would be proceeding with a Joint Submission on Sanctions. This joint submission was provided to the tribunal. The relevant portions of it read as follows:

The complaints director agrees that Mr. Chau has been cooperative with the ACP in respect to this matter. The complaints director and Mr. Chau agree that the following sanctions are appropriate in this matter:

1. Period of Suspension

An order suspending Mr. Chau's registration and practice permit for a period of 12 months from the date of the hearing.

2. Requirements for Return to Practice after the Suspension Period

An order that upon completion of Mr. Chau's suspension, Mr. Chau's registration and practice permit will not be reinstated until the following conditions are met:

- a. Mr. Chau provides evidence satisfactory to the complaints director that Mr. Chau has received appropriate treatment for his addiction issues and is fit to practice pharmacy;
- b. Mr. Chau provides to the complaints director a recent (within the last 2 months) report from a qualified health professional satisfactory to the complaints director outlining the treatments undertaken by Mr. Chau, confirming that Mr. Chau is now fit to practice pharmacy, and outlining the supports and continuing monitoring and recovery programs that Mr. Chau will be engaged in to support his return to practice;

- c. Mr. Chau satisfactorily completes all the requirements of the registration department of the Alberta College of Pharmacists required for his registration and practice; and
- d. Mr. Chau successfully completes the college's Ethics and Jurisprudence Exam.

3. Conditions on Mr. Chau's Practice Permit

An order that any practice permit issued to Mr. Chau upon the completion of his suspension, and satisfaction of the provisions of Order 2 above, shall be subject to the following conditions:

- a. Mr. Chau shall be enrolled in a monitoring and support program satisfactory to the complaints director for a period of 5 years provided that:
 - i. the 5 year period can be reduced to a period of 3 years at the discretion of the complaints director based on satisfactory reports from the health professionals involved in Mr. Chau's monitoring and treatment; and
 - ii. Mr. Chau can enter into the monitoring and support program prior to the expiry of the suspension provided he has satisfied all the requirements for entry into the program and provided that the complaints director is also a party to the support and monitoring agreement.
- b. Mr. Chau shall not be a licensee or proprietor of a pharmacy for a period of 5 years provided that;
 - i. this term can be reduced to 3 years at the discretion of the complaints director based on satisfactory reports from the health professionals involved in Mr. Chau's monitoring and treatment; and
 - ii. this restriction will not extend beyond the period of the monitoring and support program set out in 3(a) directly above.
- c. Mr. Chau shall practice under direct supervision for a period of 1 year after his return to practice. At the end of the year, and prior to the removal of the condition, the supervisor must provide the complaints director with a favourable report of Mr. Chau's supervised conduct that is satisfactory to the complaints director. (The supervisor providing the report must have directly observed the practice and conduct of Mr. Chau for a minimum of 6 months); and

- d. for a period of 5 years, Mr. Chau will provide verification to the complaints director that he has advised the licensee and proprietor of any pharmacy at which he is employed of the decision of the hearing tribunal and the orders made by the hearing tribunal and will provide such verification any time that he changes employment provided that:
 - i. this term can be reduced to 3 years at the discretion of the complaints director based on satisfactory reports from the health professionals involved in Mr. Chau's monitoring and treatment; and
 - ii. this restriction will not extend beyond the period of the monitoring and support program set out in 3(a) directly above.

4. Payment of Costs of Treatment and Monitoring

An order that any and all costs and expenses required to satisfy the conditions in Orders 2 and 3 above shall be the responsibility of and be paid by Mr. Chau.

5. Costs of the Investigation and Hearing

An order that Mr. Chau must pay the costs of the investigation and hearing to a maximum of \$10,000 payable over 12 months when the suspension ends.

After presenting the joint submission, Mr. Jardine explained that the joint submission was not binding on the hearing tribunal but that it was entitled to deference. Mr. Jardine then made submissions on behalf of the complaints director regarding sanctions. He indicated that the purpose of sanctions is

- To protect the public,
- To preserve the integrity of the profession, and
- To be fair to the member.

Mr. Jardine then took the hearing tribunal through the factors reference in *Jaswal v. Newfoundland (Medical Board)* (1996), 42 Admin. L.R. (2d) 233 and described the application of the factors in this case. Key points were:

- Nature and gravity of the conduct
Since 2007 there have been a series of relapses that would be resolved for a while but would then resort back to diversion and misuse of narcotics. This diversion and misuse is a fundamental breach of the obligations of a pharmacist.
- Age and experience of the member
Mr. Chau has been a licensed pharmacist in Alberta for 16 years. The nature of this offence is not related to inexperience.

- Previous character of the pharmacist
There were previous similar matters, but they were resolved by agreement. There is no past discipline history that should be taken into account by the Hearing Tribunal as an aggravating factor.
- The number of times the offence was proven to have occurred
This is not a single instance of diversion and misuse of narcotics. There is a pattern that shows misuse, compliance with monitoring and treatment, but then followed by a crash. There appears to be an addiction element involved.
- The role of the pharmacist in acknowledging what had occurred
Mr. Chau has always been cooperative with the college and came to the hearing with a signed admission of unprofessional conduct.
- Has the member already suffered financial or other penalties
The complaints director submitted that Mr. Chau voluntarily gave up his practice permit in January 2013, sold his pharmacy, and has incurred costs related to the monitoring program with continuing expenses related to monitoring for the next 3-5 years. Therefore, Mr. Chau has suffered financial and professional penalties related to his actions.
- Mitigating Circumstances
The complaints director submitted that we need to balance the admissions with the fact that this has been a recurring situation and that this issue needed to be dealt with by a hearing tribunal rather than attempting a fourth or fifth monitoring agreement.
- Specific and General Deterrence
Mr. Chau has been enrolled in monitoring programs since 2007, yet cycles of relapse and recovery have continued. It is hoped that a more formal set of sanctions will be the specific push necessary to change these actions. With respect to general deterrence, it is important for the profession to be clear that when you enter a monitoring agreement you need to honor it or there will be consequences.
- Need to maintain integrity of the profession
Similar to the points made with respect to deterrence, the public needs to know that monitoring agreements need to be followed or there will be consequences.
- Is the conduct something that would fall outside the range of permitted conduct
The college submitted that diversion and misuse of narcotics falls well outside permitted conduct of a licensed member.

- The range of sentencing in other similar cases
The college presented many prior cases with similar circumstances and similar sentences to that which is agreed to in the joint submission on sanctions.

After Mr. Jardine finished his submissions and walking through the *Jaswal* factors Mr. Fitz made his submissions for the member.

Mr. Fitz started by giving some background on Mr. Chau. The hearing tribunal noted that Mr. Chau did not call any evidence under oath to establish this background information; however the complaints director raised no concerns with the hearing tribunal considering Mr. Fitz's submissions.

Mr. Fitz explained that Mr. Chau is a single pharmacist in his 40's. He graduated from the University of Alberta in 1995 and has been practicing since that time.

Mr. Chau had been in a serious automobile accident in 2003, which resulted in some long term pain problems. He was an owner of a pharmacy from 2006 to 2013 in Millwoods where he has lived for about 30 years. When he graduated from pharmacy he experienced some difficulties in that both his parents were diagnosed with [REDACTED]. His mother passed away in 2006 and he had spent a considerable amount of time helping to care for her. These difficulties led to some depression for Mr. Chau. His pharmacy also struggled as a business and Mr. Chau was working long hours and not making a whole lot of money, which also contributed to his depression as well as some financial issues. It was at this point where Mr. Chau started to use medications and this started him on the path to where he is today.

Mr. Fitz explained that Mr. Chau has already been with Dr. Canniff's program for about six years and has spent about \$26,000 on monitoring and treatment to date.

It was submitted that this is not a case involving diversion for profit but rather for someone who has been struggling with an addiction. Mr. Chau has been trying to resolve these issues but continues to struggle. He is prepared to take responsibility for what has happened.

Mr. Fitz indicated that he felt Mr. Jardine did a good job explaining the *Jaswal* factors but he did make a few other comments to note:

- Nature and gravity of the conduct
Mr. Fitz submitted that this is a situation where it is an addiction issue. It is still serious but in a different class than a case where diversion for profit is present.
- Has the member already suffered financial or other penalties
Mr. Fitz added more detail to the fact that Mr. Chau has been out of practice for 10 months. He sold his pharmacy earlier in the year and it was ultimately sold for a value considerably less than he expected but he did not have any

leverage to change this. In addition Mr. Chau has already spent considerable money on monitoring and treatment programs to date.

The final issue presented during Mr. Fitz's submissions was the issue of publication. He recognized that the tribunal does not have the ability to direct whether publication occurs or not, but he did ask us to consider a recommendation to the registrar to refrain from publication on a named basis. He submitted that publication of Mr. Chau's name will not help him in dealing with this issue.

The hearing tribunal carefully considered the submissions from both the complaints director and the investigated member and made the decision to impose the orders exactly as written in the joint submission on sanctions, which are set out above in Part VII and can be referenced in Appendix B. The hearing tribunal believes that these sanctions are reasonable and appropriate given its findings of unprofessional conduct. There is no basis to say that the joint submission would be unreasonable, unfit or contrary to the public interest to impose in this case.

With respect to a recommendation to the registrar to refrain from publication with Mr. Chau's name, the hearing tribunal felt that there were no sufficiently compelling reasons for making this recommendation and that refraining from publication would not help with general deterrence. The decision was made not to make this recommendation.

Signed on behalf of the hearing tribunal by
the Chair

Dated: February 3, 2014

Per: [James Johnston]

Appendix A

3

IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*,
being Chapter H-7 of the Revised Statutes of Alberta, 2000 and THE *PHARMACY AND
DRUG ACT*, being Chapter P-13 of the Revised Statutes of Alberta, 2000

AND IN THE MATTER OF AN INVESTIGATION REGARDING THE CONDUCT
OF

THAI CHAU

Admission of Unprofessional Conduct

Pursuant to Section 70 of the *Health Professions Act*

1. Mr. Chau wishes to submit a written admission of unprofessional conduct, pursuant to section 70 of the *Health Professions Act* and to admit that he is guilty of unprofessional conduct, for the following charges:

IT IS ALLEGED THAT:

1. You breached your January 28, 2011 Professional Undertaking Agreement and December 18, 2012 Amendment by not properly participating in the Aftercare program administered by Canniff and Associates and in doing so your breach constitutes an admission of unprofessional conduct regarding the occurrences recognized in ACP Complaint #1752 and the Amendment;
2. You did not comply with aspects of your Aftercare Agreement including:
 - a. Not abstaining from non-prescribed narcotics, including the methadone and
 - b. not properly disclosing to Canniff and Associates your use of prescription medications;
3. You repeated your conduct of diverting and misusing controlled substances as a result of a relapse with your substance abuse issues. You diverted a small amount (less than 5 doses each) of chloral hydrate, Dexedrine, oxycodone and Darvon, and methadone for your personal use during the November 2012 to January 2013 period; and
4. As the former licensee of Millwoods Pharmacy, you failed to properly secure the narcotics of the pharmacy by ignoring recommendations to involve another pharmacist in securing the narcotics and in failing to maintain accurate narcotics

records that would permit an accurate count and reconciliation of narcotics received and dispensed.

IT IS ALLEGED THAT your conduct constitutes a breach of the following statutes, regulations, 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;
- Sections 1(1)(pp)(ii), 1(1)(pp)(iii) and 1(1)(pp)(xii) of the *Health Professions Act*;
- Standards 1, 5 and sub-standards 1.1, 1.2, 5.11, 5.12, of the Standards for the Operation of Licensed Pharmacies
- Sections 1(1)(p)(i), 1(1)(p)(ii), 1(1)(p)(iv), 1(1)(p)(ix), 10(1)(a), 10(1)(d)(i), 31(2)(a) and 38 of the *Pharmacy and Drug Act*;
- Principles X(1) and XI(2, 4 and 5) of the ACP Code of Ethics Bylaw;
- Section 4(1) of the *Controlled Drugs and Substances Act*; and
- Section 31(1) of the Narcotic Control Regulations.

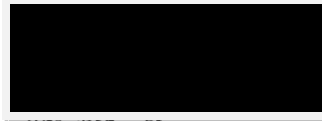
and that your conduct set out above and the breach of some or all of these provisions constitutes unprofessional conduct pursuant to the provisions of sections 1(1)(pp)(ii), 1(1)(pp)(iii) and 1(1)(pp)(xii) of the *Health Professions Act* and and misconduct pursuant to Sections 1(1)(p)(i), 1(1)(p)(ii),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

2. Mr. Chau acknowledges that the conduct described in the above charges is unacceptable and unprofessional and constitutes unprofessional conduct.

Executed by Mr. Thai Chau on November 8, 2013 after receiving independent legal advice.



Witness Signature



Thai Chau

Appendix B

IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*,
being Chapter H-7 of the Revised Statutes of Alberta, 2000 and THE *PHARMACY AND
DRUG ACT*, being Chapter P-13 of the Revised Statutes of Alberta, 2000

AND IN THE MATTER OF AN INVESTIGATION REGARDING THE CONDUCT
OF

THAI CHAU

Joint Submission on Sanctions

1. The Complaints Director agrees that Mr. Chau has been cooperative with the ACP in respect to this matter.
2. The Complaints Director and Mr. Chau agree that the following sanctions are appropriate in this matter:

1. Period of Suspension

An order suspending Mr. Chau's registration and practice permit for a period of 12 months from the date of the hearing.

2. Requirements for Return to Practice after the Suspension Period

An order that upon completion of Mr. Chau's suspension, Mr. Chau's registration and practice permit will not be reinstated until the following conditions are met:

- a. Mr. Chau provides evidence satisfactory to the Complaints Director that Mr. Chau has received appropriate treatment for his addiction issues and is fit to practice pharmacy;
 - b. Mr. Chau provides to the Complaints Director a recent (within the last 2 months) report from a qualified health professional satisfactory to the Complaints Director outlining the treatments undertaken by Mr. Chau, confirming that Mr. Chau is now fit to practice pharmacy, and outlining the supports and continuing monitoring and recovery programs that Mr. Chau will be engaged in to support his return to practice;
 - c. Mr. Chau satisfactorily completes all the requirements of the Registration Department of the Alberta College of Pharmacists required for his registration and practice; and
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- d. Mr. Chau successfully completes the College's Ethics and Jurisprudence Examination.

3. Conditions on Mr. Chau's Practice Permit

An order that any practice permit issued to Mr. Chau upon the completion of his suspension, and satisfaction of the provisions of Order 2 above, shall be subject to the following conditions:

- a. Mr. Chau shall be enrolled in a monitoring and support program satisfactory to the Complaints Director for a period of 5 years provided that:
 - (i) the 5 year period can be reduced to a period of 3 years at the discretion of the Complaints Director based on satisfactory reports from the health professionals involved in Mr. Chau's monitoring and treatment; and
 - (ii) Mr. Chau can enter into the monitoring and support program prior to the expiry of the suspension provided he has satisfied all the requirements for entry into the program and provided that the Complaints Director is also a party to the support and monitoring agreement.
 - b. Mr. Chau shall not be a licensee or proprietor of a pharmacy for a period of 5 years provided that
 - (i) this term can be reduced to 3 years at the discretion of the Complaints Director based on satisfactory reports from the health professionals involved in Mr. Chau's monitoring and treatment; and
 - (ii) this restriction will not extend beyond the period of the monitoring and support program set out in 3a directly above.
 - c. Mr. Chau shall practice under direct supervision for a period of 1 year after his return to practice. At the end of the year, and prior to the removal of the condition, the supervisor must provide the Complaints Director with a favourable report of Mr. Chau's supervised conduct that is satisfactory to the Complaints Director. (The supervisor providing the report must have directly observed the practice and conduct of Mr. Chau for a minimum of 6 months); and
 - d. for a period of 5 years, Mr. Chau will provide verification to the Complaints Director that he has advised the licensee and proprietor of any pharmacy at which he is employed of the decision of the Hearing Tribunal and the
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orders made by the Hearing Tribunal and will provide such verification any time that he changes employment provided that:

- (i) this term can be reduced to 3 years at the discretion of the Complaints Director based on satisfactory reports from the health professionals involved in Mr. Chau's monitoring and treatment; and
- (ii) this restriction will not extend beyond the period of the monitoring and support program set out in 3a directly above.

4. Payment of Costs of Treatment and Monitoring

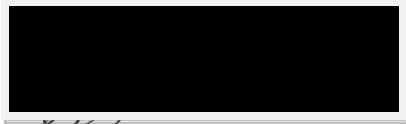
An order that any and all costs and expenses required to satisfy the conditions in Orders 2 and 3 above shall be the responsibility of and be paid by Mr. Chau.

5. Costs of the Investigation and Hearing

An order that Mr. Chau must pay the costs of the investigation and hearing to a maximum of \$10,000.00 payable over 12 months when the suspension ends.

3. Mr. Chau acknowledges having received independent legal advice in this matter.

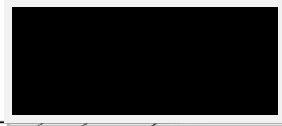
Executed by the Parties on November 8, 2013.



Thai Chau



James Krempien
Complaints Director of the Alberta College
of Pharmacists



Witness



Witness