

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF  
THE *HEALTH PROFESSIONS ACT*

AND IN THE MATTER OF A HEARING REGARDING  
THE CONDUCT OF

**BRENDAN IHEJIRIKA**  
Registration Number: 6305

**DECISION OF THE HEARING TRIBUNAL ON SANCTION**

February 8, 2023

## **I. INTRODUCTION**

1. In its written decision dated October 5, 2022, the Hearing Tribunal described its findings with respect to the allegations of unprofessional conduct as set out in the Notice of Hearing dated March 30, 2022 against Dr. Brendan Ihejirika. In summary, the Hearing Tribunal found that each of the four allegations were proven on a balance of probabilities, and that the conduct in issue for each of the four proven allegations constituted “unprofessional conduct” as defined in the *Health Professions Act* (“HPA”).
2. Based on the findings of “unprofessional conduct” the Hearing Tribunal directed the College to serve its decision on Dr. Ihejirika and requested submissions on appropriate sanctions from the College and Dr. Ihejirika or his legal representative within a timeframe to be determined by the College.
3. In an email dated and sent on October 11, 2022 to the Hearings Director and Dr. Ihejirika, counsel for the Complaints Director, Ms. Chisholm, proposed a schedule for written submissions. Dr. Ihejirika did not respond to this email although a system-generated delivery receipt confirmed it had been delivered to an active mailbox consistent with the email address [REDACTED] provided by Dr. Ihejirika on his registration record. The Hearings Director provided the proposed schedule to the Hearing Tribunal chair who in turn directed the Hearings Director to inform the parties that the Hearing Tribunal accepted the schedule as proposed. On October 12, 2022, the Hearings Director sent an email to Ms. Chisholm and Dr. Ihejirika confirming the tribunal’s acceptance of the proposed schedule.
4. In accordance with the submission schedule, on November 4, 2022 Ms. Chisholm sent the Complaints Director’s written submissions on sanction to the Hearings Director and Dr. Ihejirika by email. In a reply email on November 14, 2022, the Hearing Director acknowledged to both parties, receipt of the Complaints Director’s written submissions on sanction and reminded the parties that the deadline for Dr. Ihejirika’ written submissions on sanction is December 2, 2022. The Hearings Director also informed the parties of the Hearing Tribunal’s intention to deliberate on December 14, 2022 with a written decision to follow.
5. Dr. Ihejirika did not submit a written submission on sanction to the Hearings Director by December 2, 2022. On December 5, 2022 the Hearings Director emailed Dr. Ihejirika and Ms. Chisholm to inform them that she had not received a written submission on sanction from Dr. Ihejirika and that the Complaints Director’s written submission on sanction dated November 4, 2022 had been provided to the hearing tribunal for its deliberation on December 14, 2022.
6. The Hearing Tribunal met via video conference on December 14, 2022 to review written submissions and deliberate on sanction. Present on behalf of the Hearing Tribunal were Anjli Acharya, pharmacist and chair; Rhonda

Bodnarchuk, pharmacy technician; and June MacGregor public member. Public member Juane Priest did not attend. Mr. Fred Kozak, independent counsel to the hearing tribunal was in attendance. Mr. Kozak asked the Hearing Tribunal members who were present to consider whether they were prepared to proceed with deliberations on sanction in Ms. Priest's absence. The Hearing Tribunal invited Ms. Chisholm to join the video conference and to comment on whether the Complaints Director had any concerns with the tribunal proceeding with one public member absent. Ms. Chisholm joined the video conference and confirmed that the Complaints Director had no objection. She referenced section 16(3)(a) of the *Health Professions Act*, submitting that if a member of a Hearing Tribunal was not capable of carrying out the powers and duties of a member, the Hearing Tribunal could elect to continue to hold a hearing in which the member had been participating, and the Hearing Tribunal was not thereby be precluded from carrying out its powers and duties with respect to the hearing. Ms. Chisholm then left the video conference.

7. In acknowledging that Dr. Ihejirika had not participated or communicated in any way throughout this hearing process despite efforts to facilitate and encourage his participation, the Hearing Tribunal decided, in accordance with HPA s. 16(3), to carry out its deliberations on sanction as scheduled on December 14, 2022. The Hearing Tribunal reviewed the only written submissions received; *2022-11-04 Written Submissions on Sanction – Complaints Director.pdf*.

## **II. SUMMARY OF SUBMISSIONS ON SANCTION BY THE COLLEGE**

8. The Complaints Director submitted that discipline proceedings are an important part of the responsibility of a self-regulating profession. Sanctions imposed for unprofessional conduct by the Hearing Tribunal should necessarily be aimed at protecting the public, maintaining the integrity of the profession, and deterring similar conduct in the future, all of which should be done in a manner which fairly contemplates the particular circumstances of the member whose conduct is in issue.
9. In this case, the Hearing Tribunal found that the conduct of Dr. Ihejirika constituted unprofessional conduct in respect to the following allegations:
  - a. Failed to act ethically or honestly in his dealings with Telus Health when he submitted or allowed for the submission of claims to Telus Health for:
    - i. 68 prescriptions without being able to provide purchase invoices to support the claims; and
    - ii. 47 prescriptions in which he prescribed for himself and his family members without being able to provide documentation or evidence to support that the prescribing was completed on an emergency basis.

- b. Failed to create or maintain required and accurate pharmacy records, including when he made claims for 68 prescriptions (out of 203 audited claims) to Telus Health when there are no records to show sufficient stock was ever received by the Pharmacy in respect to those claims.
- c. Prescribed and dispensed medications for himself that were not for minor conditions, required in an emergency or where another prescriber was not readily available, including:
  - i. [REDACTED]; and
  - ii. [REDACTED] compounded product.
- d. Prescribed and dispensed medications for his immediate family members that were not for minor conditions, required in an emergency or where another prescriber was not readily available, including:
  - i. [REDACTED] for [REDACTED];
  - ii. [REDACTED] for [REDACTED];
  - iii. [REDACTED] for [REDACTED];
  - iv. [REDACTED] for [REDACTED];
  - v. [REDACTED] for [REDACTED];
  - vi. [REDACTED] for [REDACTED];
  - vii. [REDACTED] for [REDACTED];
  - viii. [REDACTED] for [REDACTED];
  - ix. [REDACTED] for [REDACTED];
  - x. [REDACTED] for [REDACTED]; and
  - xi. [REDACTED] for [REDACTED].

10. This Hearing Tribunal also determined that by engaging in the above-noted conduct, Dr. Ihejirika:

- a. failed to demonstrate the ethical conduct expected and required of an Alberta pharmacist and pharmacy licensee;
- b. failed to demonstrate the professional judgment required of an Alberta pharmacist and pharmacy licensee;

- c. breached his statutory and regulatory obligations to the College as an Alberta pharmacist and pharmacy licensee;
  - d. undermined the integrity of the profession; and
  - e. decreased the public's trust in the profession.
11. The Complaints Director referred the Hearing Tribunal to a number of factors taken from the case of *Jaswal v Newfoundland Medical Board* that he submitted should be considered when imposing sanctions. A summary of those submissions follows:

***The Nature and Gravity of the Proven Allegations***

12. Each of the proven allegations constitute unprofessional conduct and are serious. The proven allegations reflect Dr. Ihejirika's failure to adhere to fundamental responsibilities of Alberta pharmacists and pharmacy licensees.

***The Age and Experience of the Member***

13. Dr. Ihejirika is an experienced Alberta pharmacist and licensee. He was registered with the College as a clinical pharmacist on March 13, 2003 and has been a licensee since July 1, 2005. Dr. Ihejirika held additional prescribing authorization from July 24, 2017 until he voluntarily cancelled his practice permit on August 15, 2021. From March 1, 2006 to September 8, 2020, Dr. Ihejirika was also the owner and proprietor of Royal Care Compounding Pharmacy. Inexperience is not a mitigating factor in this case.

***The Presence or Absence of Prior Complaints or Convictions***

14. Dr. Ihejirika has one prior finding of unprofessional conduct against him. In a decision dated June 11, 2020, the College's Hearing Tribunal found that Dr. Ihejirika engaged in unprofessional conduct when he fabricated documentation for the purpose of a compliance verification review conducted by Alberta Blue Cross and failed to properly store and maintain pharmacy records.

***The Age and Mental Condition of the Offended Patient***

15. Dr. Ihejirika prescribed for a close relative who was a child, someone not in a position to understand the implications of that conduct.

***The Number of Times the Offences were Proven to Have Occurred***

16. The evidence before the Hearing Tribunal was that Dr. Ihejirika's conduct occurred over the course of a year and a half and that he inappropriately prescribed for himself and his family members on more than one occasion. This is not a case where a member engaged in a single instance of unprofessional conduct and should be viewed as an aggravating factor.

### ***The Role of the Member in Acknowledging What has Occurred***

17. In cases where a member acknowledges their conduct, that acknowledgement may serve as a mitigating factor. Acknowledgement is not a mitigating factor in this case. Dr. Ihejirika did not appear at the hearing, which meant that the Hearing Tribunal proceeded as though the allegations were denied.

### ***Whether the Offending Member has Already Suffered Serious Financial or other Penalties as a Result of the Allegations Having Been Made***

18. The Complaints Director is not aware of any evidence that Dr. Ihejirika has suffered any other consequences as a result of the allegations made against him. This is therefore a neutral factor.

### ***The Impact of the Incident on the Offended Patient***

19. The Complaints Director is not aware of any evidence of patient harm.

### ***The Presence or Absence of any Mitigating Circumstances***

20. The Complaints Director is not aware of any mitigating circumstances in this case.

### ***The Need to Impose Specific and General Deterrence***

21. In terms of specific deterrence, it is imperative that Dr. Ihejirika understand that his conduct as a pharmacist and licensee was unacceptable and unprofessional. Specific deterrence is more important in this case as this is the second time Dr. Ihejirika's conduct has been referred to a hearing based on his failure to maintain an honest and ethical relationship with third party insurers.
22. In terms of general deterrence, it is vital that other members of the profession see that the College cannot and will not tolerate the proven conduct.

### ***The Need to Maintain the Public's Confidence in the Integrity of the Profession of Pharmacy in Alberta***

23. Dr. Ihejirika's conduct has the potential to decrease the trust that the public and other professions hold in the pharmacy profession. Protecting the integrity of the profession of pharmacy is one of the primary responsibilities of the College.

### ***The Degree to Which the Conduct is Clearly Outside the Range of Permitted Conduct***

24. The conduct in this case is clearly beyond the range of permitted conduct.

### ***The Range of Sentences in Other Similar Cases***

25. The Complaints Director referred to cases regarding the conduct of *Si Nguyen* and *Denysia Wincott* to support his submissions that the orders requested in this case are consistent with what has been ordered in previous cases.

### **III. THE ORDERS PROPOSED BY THE COMPLAINTS DIRECTOR**

26. In his written submissions, and having regard to the *Jaswal* factors noted, the Complaints Director requested that the Hearing Tribunal impose the following orders under section 82 of the HPA:
1. Dr. Ihejirika's practice permit shall be suspended for 6 months to be served commencing on the date the Hearing Tribunal issues its written decision. Dr. Ihejirika shall be ineligible to apply to have his practice permit reinstated until after this period of suspension has passed.
  2. Dr. Ihejirika shall provide the Complaints Director with evidence that he has, at his own expense, taken and received an unconditional pass on the CPEP Probe Course before he is eligible to apply to have his practice permit reinstated.
  3. Dr. Ihejirika shall pay a \$7,500 fine for each of Allegations 1 and 2 and a \$2,500 fine for each of Allegations 3 and 4, for a total fine of \$20,000, within 90 days of receiving the Hearing Tribunal's written decision.
  4. Dr. Ihejirika's Additional Prescribing Authorization (APA) shall be revoked, commencing from the date the Hearing Tribunal issues its written decision and Dr. Ihejirika shall be required to reapply for APA upon his reinstatement on the clinical pharmacist register.
  5. Upon reinstatement to the clinical pharmacist register, Dr. Ihejirika shall practice under the indirect supervision of a pharmacist acceptable to the Complaints Director, for a minimum of six months from the date he is reinstated on the clinical pharmacist register or until such time as Dr. Ihejirika's supervisor provides three consecutive reports (one report every two months), that are satisfactory to the Complaints Director that Dr. Ihejirika has practiced, and in particular prescribed, in accordance with the expected standards of the profession.

6. Dr. Ihejirika shall not be permitted to serve as the owner, proprietor or licensee of a pharmacy for 5 years from the date of the Hearing Tribunal's written decision.
7. Dr. Ihejirika shall provide a copy of the Hearing Tribunal's written decision in this matter and the Hearing Tribunal's decision of June 11, 2020 to any pharmacy employer or licensee of a pharmacy in which he applies to work or works as a pharmacist for five years, commencing from the date of the Hearing Tribunal's written decision.
8. Dr. Ihejirika shall pay 100% of the costs of the investigation and hearing. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director and the costs shall be paid in full within 24 months of the date the Hearing Tribunal issues its written decision on sanction.

**IV. SUMMARY OF SUBMISSIONS ON SANCTION BY DR. BRENDAN IHEJIRIKA**

27. The Hearings Director forwarded the Hearing Tribunal's October 5, 2022 written decision on Merit to Dr. Ihejirika on October 28, 2022 by registered mail. In that decision, both parties were invited to provide submissions on sanction. Through emails from the Hearings Director, Dr. Ihejirika was further invited to provide written submissions on sanction by December 2, 2022 and he was informed of the Hearing Tribunal's deliberation date of December 14, 2022. The Hearings Director confirmed to the Hearing Tribunal on December 14, 2022 that no written submissions were received from Dr. Ihejirika. On January 4, 2023, the Hearings Director received the envelope containing the decision on Merit. It was returned to the Hearings Director by Canada Post unopened. The tracking record revealed that although it was signed for on October 28, 2022, it was later returned to Canada Post on December 27th, unopened, marked "refused" and processed for return to sender. The ACP offices were closed for the holidays which delayed the return to the ACP office until January 3, 2023. A pdf copy of the decision on Merit was emailed to Dr. Ihejirika on October 11 2022 and was confirmed to have been 'delivered' to the email address for Dr. Ihejirika on the ACP register. The Hearing Tribunal is satisfied that the Hearings Director took all appropriate and reasonable steps to deliver the decision on Merit and encouraged Dr. Ihejirika to participate in the sanction phase of the hearing. The sanction hearing cannot be thwarted simply by Dr. Ihejirika's refusal to participate.



**V. DECISION**

28. The Hearing Tribunal has carefully considered the Complaints Directors' submissions on sanction. The Hearing Tribunal notes that every reasonable step was taken to notify Dr. Ihejirika of this process and timeline and invite him to make submissions on sanction. The Hearing Tribunal is satisfied that Dr. Ihejirika is aware of these proceedings but has voluntarily chosen not to participate. The Hearing Tribunal makes the following orders pursuant to Section 82 of the *Health Professions Act*:

1. Dr. Ihejirika's practice permit shall be suspended for 6 months, commencing from the date of this written decision. Dr. Ihejirika is ineligible to apply to have his practice permit reinstated until after this period of suspension has passed.
2. Dr. Ihejirika shall provide the Complaints Director with evidence that he has, at his own expense, taken and received an unconditional pass on the CPEP Probe Course before he is eligible to apply to have his practice permit reinstated.
3. Dr. Ihejirika shall pay a \$7,500 fine for each of Allegations 1 and 2 and a \$2,500 fine for each of Allegations 3 and 4, for a total fine of \$20,000, to be paid within 90 days following his reinstatement to the clinical pharmacist register.
4. Dr. Ihejirika's Additional Prescribing Authorization (APA) shall be revoked, commencing from the date of this written decision and Dr. Ihejirika shall be required to reapply for APA after his reinstatement on the clinical pharmacist register.
5. Upon reinstatement to the clinical pharmacist register, Dr. Ihejirika shall be required to practice under the indirect supervision of a pharmacist acceptable to the Complaints Director, for a minimum of six months following the date he is reinstated on the clinical pharmacist register or until such time as Dr. Ihejirika's supervisor provides three consecutive reports (one report every two months), that are satisfactory to the Complaints Director that Dr. Ihejirika has practiced, and in particular prescribed, in accordance with the expected standards of the profession.
6. Dr. Ihejirika shall not be permitted to serve as the owner, proprietor or licensee of a pharmacy for 5 years from the date of this written decision.

7. Dr. Ihejirika shall provide a copy of the Hearing Tribunal's written decision in this matter and the Hearing Tribunal's decision of June 11, 2020 to any pharmacy employer or licensee of a pharmacy in which he applies to work or works as a pharmacist for five years, commencing from the date of this written decision.
8. Dr. Ihejirika shall pay 100% of the costs of the investigation and hearing. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director and the costs shall be paid in full within 24 months of the date of this written decision on sanction.

## **VI. REASONS**

29. In determining the appropriate orders, the Hearing Tribunal considered the findings outlined in its decision of October 5, 2022, and the written submissions of the Complaints Director with respect to sanction, including the cases referred to in those submissions.

### **Order 1: Six-Month Suspension**

30. Any suspension is serious. A suspension in this case will serve the purpose of deterrence by demonstrating that the College takes this conduct very seriously. This is Dr. Ihejirika's second hearing related to his conduct dealing with third party insurers. In the earlier matter, the Hearing Tribunal ordered that Dr. Ihejirika's practice permit be suspended for 3 months. An incremental approach to the period of suspension is warranted in relation to these serious charges.

### **Order 2: CPEP Probe Course**

31. The CPEP Probe course is intended to serve the purpose of specific deterrence by providing Dr. Ihejirika with an opportunity for greater self-awareness and reflect on his conduct and demonstrate to both the public and the College that he has developed an understanding of why his conduct was unprofessional and will not be repeated.

### **Order 3: Fines**

32. All of the proven allegations are serious. It is appropriate to impose a \$7,500 fine for each of Allegations 1 and 2 and a \$2,500 fine for each of Allegations 3 and 4 for a total fine of \$20,000. Again, the Hearing Tribunal believes an incremental approach is warranted. These fines are greater than the fines imposed in Dr. Ihejirika's previous conduct hearing. His conduct in relation to Allegations 1 and 2 reflects a dishonest and unethical approach to dealing with third party insurers, a second time, and his conduct in Allegations 3 and 4 reflect misuse of the prescribing authority which has been so carefully entrusted to the

profession of pharmacists. Given that the suspension imposed will reduce Dr. Ihejirika's income and given his obligation to pay costs in relation to these proceedings, the obligation to pay the fines shall not commence until his reinstatement to the clinical pharmacist register, with all fines to be paid within 90 days of that reinstatement.

#### **Order 4: Revocation of Additional Prescribing Authorization**

33. Pharmacists in Alberta can apply to obtain Additional Prescribing Authorization (APA). APA is part of what allows Alberta pharmacists to practice and offer the public a more advanced practice of pharmacy than can be found in any other jurisdiction in Canada. In this case, Dr. Ihejirika did not meet the Standards of Practice related to prescribing. By requiring Dr. Ihejirika to submit a new application, the College and the public can be satisfied that Dr. Ihejirika has a clear understanding of the limits of a pharmacist's prescribing authority.

#### **Order 5: Indirect Supervision**

34. Because this is Dr. Ihejirika's second hearing related to dishonesty with third party insurers, and because he has not demonstrated that he understands or will adhere to rules and limitations on prescribing authority granted to pharmacists, some degree of indirect supervision is warranted to ensure the public is protected. Indirect supervision may also provide some education for Dr. Ihejirika on his return to practice.

#### **Order 6: Owner, Proprietor and Licensee Restriction**

35. The governing framework of the profession makes clear that licensees and proprietors have specific responsibilities to the public and the profession. In this case, Dr. Ihejirika demonstrated that he does not understand or will not follow the requirements of the governing framework.

#### **Order 7: Providing written decision to pharmacy employer or licensee of a pharmacy**

36. Providing a copy of both of the Merits Decision and this Sanction Decision to employers or licensees of pharmacies in which Dr. Ihejirika works in the future is an important safeguard to deter and prevent similar unprofessional conduct from harming future pharmacy employers or the licensee of the pharmacy in which he works.

#### **Order 8: Payment of Costs**

37. Pursuant to section 82(1)(j) of the HPA, the Hearing Tribunal has the jurisdiction to direct that Dr. Ihejirika pay the costs of the investigation and hearing in this case. In the circumstances of this case, the Hearing Tribunal has determined it is appropriate that Dr. Ihejirika bear all those costs. The need for the

investigation and the hearing arose as a direct result of Dr. Ihejirika's unprofessional conduct and misconduct. In *Jinnah*, the Court of Appeal outlined 4 general circumstances where all or a portion of the costs can be awarded against a member, the first three of which are present in this case, that is:

- a. When a professional has engaged in serious unprofessional conduct;
- b. When a professional is a serial offender who has engaged in unprofessional conduct on two or more occasions; and
- c. When a professional fails to cooperate with a college's investigators and forces a college to spend more resources than is necessary to ascertain certain facts related to a complaint.


38. With respect to c above, although there was no allegation that Dr. Ihejirika failed to participate in the College's investigation, his role and responses were limited, and he did not attend at the hearing. This required the Complaints Director to spend additional time and resources to ensure that the allegations against Dr. Ihejirika could be proven on a balance of probabilities.

## **VII. ORDERS**

39. The Hearing Tribunal makes the following orders pursuant to Section 82 of the *Health Professions Act*:
1. Dr Ihejirika's practice permit shall be suspended for 6 months to commence on the date of this written decision. Dr. Ihejirika is ineligible to apply to have his practice permit reinstated until after this period of suspension has passed.
  2. Dr. Ihejirika shall provide the Complaints Director with evidence that he has, at his own expense, taken and received an unconditional pass on the CPEP Probe Course before he is eligible to apply to have his practice permit reinstated.
  3. Dr. Ihejirika shall pay a \$7,500 fine for each of Allegations 1 and 2 and a \$2,500 fine for each of Allegations 3 and 4, for a total fine of \$20,000 within 90 days following his reinstatement to the clinical pharmacist register.
  4. Dr. Ihejirika's Additional Prescribing Authorization (APA) shall be revoked, commencing from the date of this written decision and Dr. Ihejirika shall be required to reapply for APA following his reinstatement on the clinical pharmacist register.

5. Upon reinstatement to the clinical pharmacist register, Dr. Ihejirika shall be required to practice under the indirect supervision of a pharmacist acceptable to the Complaints Director, for a minimum of six months from the date he is reinstated on the clinical pharmacist register or until such time as Dr. Ihejirika's supervisor provides three consecutive reports (one report every two months), that are satisfactory to the Complaints Director that Dr. Ihejirika has practiced, and in particular prescribed, in accordance with the expected standards of the profession.
6. Dr. Ihejirika shall not be permitted to serve as the owner, proprietor, or licensee of a pharmacy for 5 years from the date of this written decision.
7. Dr. Ihejirika shall provide a copy of the Hearing Tribunal's written decision in this matter and the Hearing Tribunal's decision of June 11, 2020 to any pharmacy employer or licensee of a pharmacy in which he applies to work or works as a pharmacist for five years, commencing from the date of this written decision.
8. Dr. Ihejirika shall pay 100% of the costs of the investigation and hearing. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director. Unless the Hearings Director otherwise agrees, the costs shall be paid in full within 24 months of the date of this written decision on sanction.

Signed on behalf of the Hearing Tribunal by Chair on February 8, 2023.

Per:   
[Anjali Acharya \(Feb 8, 2023 12:31 MST\)](#)  
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Anjali Acharya