

ALBERTA COLLEGE OF PHARMACY

IN THE MATTER OF  
THE HEALTH PROFESSIONS ACT

AND IN THE MATTER OF A HEARING  
REGARDING THE CONDUCT OF

**Hugo Leung**

Registration number: 7555

**DECISION OF THE HEARING TRIBUNAL**

May 31, 2021

## **I. INTRODUCTION**

On April 22, 2021, the Hearing Tribunal held a hearing into the conduct of Hugo Leung. In attendance on behalf of the Hearing Tribunal were Nancy Brook, public member, June MacGregor, public member, Brad Willsey, pharmacist, and Anita McDonald, pharmacist and chair.

The hearing took place via videoconference. The hearing was held under the terms of Part 4 of the *Health Professions Act* (“HPA”).

In attendance at the hearing were: Mr. James Krempien, Complaints Director for the Alberta College of Pharmacy (the “College”); Ms. Annabritt Chisholm and Mr. Raymond Chen, legal counsel representing the Complaints Director; and Hugo Leung, Investigated Member. Mr. Leung confirmed he was aware of his right to be represented by legal counsel and chose to represent himself during the hearing. Mr. Jason Kully was also in attendance, acting as independent counsel for the Hearing Tribunal.

Margaret Morley, Hearing Director, was also present. Ms. Morley 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 or the jurisdiction of the Hearing Tribunal to proceed with a hearing.

## **II. ALLEGATIONS**

The Hearing Tribunal held a hearing to inquire into the following allegations with respect to Mr. Leung, as set out in the Notice of Hearing:

IT IS ALLEGED THAT, between July 1, 2018 and September 23, 2020, while practicing as a pharmacist at CareRx Compounding Edmonton (Pharmacy License #3256), you:

1. Did not maintain professional liability insurance for the periods of:
  - a. July 1, 2018 to June 30, 2019,
  - b. July 1, 2019 to June 30, 2020, and
  - c. July 1, 2020 to September 23, 2020.
  
2. Breached the professional declarations you made on or about:
  - a. May 30, 2018,
  - b. May 31, 2019, and
  - c. May 31, 2020,by not maintaining professional liability insurance while on the clinical pharmacist register; and
  
3. Practiced without professional liability insurance between July 3, 2018 and September 18, 2020 during approximately 534 pharmacist shifts.

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, and
- c. 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 (sub-standards 1.1 and 1.2) of the Standards of Practice for Pharmacists and Pharmacy Technicians.
- Principles 1(1), 10(1) and 10(2) of the Alberta College of Pharmacy's Code of Ethics.
- Section 13(1) of the Pharmacists and Pharmacy Technicians Profession Regulation.
- Section 40(1) (c) of the *Health Professions 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) and 1(1)(pp)(xii) of the *Health Professions Act*.

### **III. EVIDENCE AND SUBMISSIONS**

The hearing proceeded with an Agreed Statement of Facts and an Admission of Unprofessional Conduct on the part of Investigated Member, Hugo Leung. No witnesses were called to testify.

The following exhibits were entered by agreement of the parties:

Exhibit 1: April 20, 2021, Combined Exhibit Book, which included the Notice of Hearing, an Admission of Unprofessional Conduct, and an Agreed Statement of Facts & Exhibits.

#### **Agreed Statement of Facts**

The Agreed Statement of Facts submitted states:

1. At all relevant times, Mr. Leung was a registered member of the Alberta College of Pharmacy on the clinical pharmacist register.

2. On November 13, 2020, the Complaints Director received an email of complaint from Ms. Arlene Raimondi, Policy Lead and Registration Officer, Alberta College of Pharmacy (the “Complainant”). Ms. Raimondi’s email of complaint and enclosed attachments are attached as Exhibit “A” to this Agreed Statement of Facts.
3. Based on Ms. Raimondi’s letter of complaint, the Complaints Director commenced an investigation into the conduct of Mr. Leung. The investigation resulted in this complaint being referred to a hearing.
4. On November 16, 2020, the Complaints Director had a phone conversation with Mr. Leung. A summary of their conversation is attached as Exhibit “B” to this Agreed Statement of Facts.
5. On November 16, 2020, the Complaints Director wrote to Mr. Leung and requested that he review the Complainant’s concerns and provide a written response to the complaint. Specifically, the Complaints Director asked Mr. Leung to respond to the following allegations:
  - a. You breached the professional declarations that you declared on or about May 30, 2018, May 31, 2019, and May 31, 2020 as part of your annual practice permit renewals in that you did not maintain valid professional liability insurance while on the clinical register;
  - b. You were on the clinical register from July 1, 2018 until on or about September 23, 2020 without valid professional liability insurance; and
  - c. You may have practiced as a pharmacist without valid professional liability insurance from July 1, 2018 until on or about September 23, 2020 without valid professional liability insurance.

Attached as Exhibit “C” to this Agreed Statement of Facts is the letter and enclosures provided by the Complaints Director to Mr. Leung.

6. On December 11, 2020, the Complaints Director received Mr. Leung’s written response to the complaint. In this written response to the complaint, Mr. Leung:
  - a. Admitted to breaching his professional declarations declared on May 30, 2018, May 30, 2019, and May 20, 2020 by not maintaining professional liability insurance.
  - b. Admitted that he was on the clinical register from July 1, 2018 to September 23, 2020 without valid professional liability insurance.
  - c. Admitted that he practiced as a pharmacist at Pharmicare Pharmacy #2 (Pharmacy License #3256) for 534 shifts without valid professional liability insurance from July 3, 2018 to September 18, 2020.
  - d. Provided a timeline of events as follows:
    - i. He had a system where his insurance agent with Alberta First Insurance Services had his credit card on file and would renew

- his professional liability insurance, which occurred as scheduled on May 26, 2017,
- ii. On March 1, 2018, Alberta First Insurance Services merged with Sheppard Insurance Service and the accounts were not transferred automatically,
  - iii. An email was sent to him on April 4, 2018 informing him that he needed to set up a new policy with Sheppard Insurance, but the email went to his “updates” folder and “remained unread”, and
  - iv. He did not set up a policy with Sheppard Insurance and his policy ended on June 20, 2018 but he was unaware until September 22, 2020.
- e. Indicated that he accepts responsibility for failing to have an adequate system in place to prompt him to look into the missing policy.

Mr. Leung’s written response to the complaint is attached as Exhibit “D” to this Agreed Statement of Facts.

7. On December 14, 2020, the Complaints Director had a phone conversation with Mr. Leung. During the meeting, Mr. Leung:
- a. Admitted he provided false declarations on May 30, 2018, May 31, 2019, and May 31, 2020 in that he did not maintain professional liability insurance while on the clinical pharmacist register between July 1, 2018 to June 30, 2019, July 1, 2019 to June 30, 2020, and July 1, 2020 to on or about September 23, 2020;
  - b. Indicated his failure to maintain his professional liability insurance was an unintentional error on his part for which he is sincerely sorry; and
  - c. Admitted he practiced as a pharmacist at Pharmacare Pharmacy #2 on 534 shifts during the periods without professional liability insurance.

The Complaints Director’s summary of their meeting is attached as Exhibit “E” to this Agreed Statement of Fact.

8. As part of his investigation, the Complaints Director reviewed a sample of recent ACP communications regarding notices and reminders for pharmacists to obtain profession liability insurance. Specifically, the Complaints Director noted that the following documents had been previously communicated to ACP pharmacists during the relevant time period:
- a. The February 1, 2017 The Link edition included the article: *Are your professional declarations up to date*, which reminded pharmacists of the requirement for professional liability insurance. This article had an embedded link to the *Guidelines for audits of professional declarations* section on the ACP website,
  - b. The October 17, 2018 The Link edition included the article: *Failing to fulfill professional declarations and not carrying current liability*

- insurance can be a costly mistake*, which notified pharmacists about a recent hearing tribunal decision involving a pharmacist who was found to have failed to renew his professional liability insurance,
- c. The September 18, 2019 The Link edition included the article: *Failing to fulfill your professional declarations and not carrying current liability insurance can become a costly mistake*, which notified pharmacists about three of five recent hearing tribunal decisions involving pharmacists who were found to have failed to renew their professional liability insurance,
  - d. The October 30, 2019 The Link edition included the article: *Failing to fulfill your professional declarations and not carrying current liability insurance can become a costly mistake*, which notified pharmacists about two of five recent hearing tribunal decisions involving pharmacists who were found to have failed to renew their professional liability insurance, and
  - e. Information through the Search function of the Alberta College of Pharmacy's website, using the search term "audits", regarding *Guidelines for audits of professional declarations*.

The sample of documents reviewed by the Complaints Director are attached as Exhibit "F" to this Agreed Statement of Facts.

9. Mr. Leung acknowledges that he has waived his opportunity to receive legal advice prior to entering this Agreed Statement of Facts and that he understands that the Hearing Tribunal may use this Agreed Statement of Facts as proof of the allegations set out in the Notice of Hearing.

Admission of Unprofessional Conduct:

In the Admission of Unprofessional Conduct, Mr. Leung admitted the allegations set out in the Notice of Hearing. Mr. Leung also agreed and acknowledged that his conduct breached his statutory and regulatory obligations to the College, undermined the integrity of the profession, and that he failed to exercise the professional and ethical judgment expected and required of an Alberta pharmacist. Mr. Leung further agreed and acknowledged that his conduct breached Standard 1 and sub-standards 1.1 and 1.2 of the Standards of Practice for Pharmacists and Pharmacy Technicians; Principles 1(1), 10(1), and 10(2) of the College's Code of Ethics; Section 13(1) of the Pharmacists and Pharmacy Technicians Profession Regulation, and section 40(1)(c) of the *Health Professions Act* (HPA).

Mr. Leung admitted that his conduct constitutes "unprofessional conduct" as defined in sections 1(1)(pp)(ii) and 1(1)(pp)(xii) of the HPA.

Ms. Chisholm made submissions on behalf of the College.

Ms. Chisolm reviewed the Notice of Hearing and advised the allegations before the Tribunal stemmed from Mr. Leung's failure to maintain professional liability insurance during three

practice permit years, and a related failure to uphold three professional declarations that he made to the College when he renewed his practice permit in 2018, 2019, and 2020.

Ms. Chisolm stated the Tribunal's task was to determine whether the allegations in the Notice of Hearing had been factually proven on a balance of probabilities, and if so whether the proven allegations constituted unprofessional conduct under the HPA.

Ms. Chisolm then reviewed the Agreed Statement of Facts, including the attached exhibits, and the Admission of Unprofessional Conduct.

Ms. Chisolm advised that Mr. Leung had acknowledged his conduct and that the documents in the Combined Exhibit Book provided sufficient evidence for the Tribunal to find that the allegations were proven on a balance of probabilities and that they amounted to unprofessional conduct.

Mr. Leung elected to not provide any submissions.

#### **IV. FINDINGS**

The members of the Hearing Tribunal accepted Mr. Leung's admission of unprofessional conduct and concluded the allegations were proven on a balance of probabilities and that the conduct constituted unprofessional conduct as defined in the HPA.

In determining that the allegations were proven, and that Mr. Leung's admission should be accepted, the Hearing Tribunal carefully considered the Agreed Statement of Facts & Exhibits entered into by the parties, as well as the Admission of Unprofessional Conduct.

The reasons for the Hearing Tribunal's findings that the allegations in the Notice of Hearing are factually proven on a balance of probabilities are as follows.

With respect to Allegation 1, the facts and evidence demonstrated that Mr. Leung, while practicing as a pharmacist at CareRx Compounding Edmonton, did not maintain professional liability insurance from July 1, 2018 to June 30, 2019, and from July 1, 2019 to June 30, 2020, and also between July 1, 2020 and September 23, 2020 while he was on the clinical pharmacist's register.

Mr. Leung admitted that he did not have professional liability insurance during these periods. Mr. Leung explained that he had a system where his insurance agent would renew his professional liability insurance each year but that on March 1, 2018, his insurer merged with another insurance provider. Although Mr. Leung's accounts were not transferred automatically, he was sent an email advising he needed to set up a new policy. This email went to his "updates" folder and was not read; therefore, he did not set up a policy with his new insurer until September 22, 2020. Mr. Leung only became aware of the lack of insurance when he was contacted by the College as part of an audit.

While Mr. Leung provided an explanation as to why he did not have insurance, he accepted responsibility for failing to have an adequate system in place to look into the missing policy.

Given the lack of insurance and Mr. Leung's mistaken belief that he had insurance, regarding Allegation 2, the facts and evidence established that Mr. Leung breached his professional declarations of May 30, 2018, May 31, 2019, and May 31, 2020 by not maintaining professional liability insurance while on the clinical pharmacist register as he had declared. Specifically, the documents attached to the Agreed Statement of Facts demonstrate that as part of the yearly practice permit renewal process, pharmacists are required to declare that they are in possession of valid professional liability insurance that provides no less than two million dollars' worth of personal coverage and to declare that they understand that they must maintain this valid insurance coverage while registered on the clinical register. Mr. Leung signed and dated this declaration despite not being in possession of the valid professional liability insurance. He then failed to maintain the insurance while on the register.

Finally, with respect to Allegation 3, in light of the above, the facts and evidence also demonstrated that Mr. Leung practiced as a pharmacist at CareRx Compounding Edmonton for approximately 534 pharmacy shifts without professional liability insurance between July 3, 2018 and September 18, 2020. This number was calculated by Mr. Leung himself and admitted by Mr. Leung.

In summary, for over two years Mr. Leung did not have professional liability insurance but mistakenly believed he did. He continued to work at CareRx Compounding Edmonton and complete professional declarations in accordance with this mistaken belief without taking active steps to ensure he was meeting his professional obligations.

The Hearing Tribunal's reasons for finding that the proven conduct amounts to unprofessional conduct are as follows.

Section 40(1)(c) of the HPA and Section 13 of the Pharmacists and Pharmacy Technicians Profession Regulation state that regulated members must possess professional liability insurance in order to obtain a practice permit. This is necessary to protect the public when receiving pharmacy services. Regulators must ensure that there is a financial resource that is independent of the member to meet the costs of any damages that may be awarded against the member in court, as in a loss situation the member may not have the resources to pay for the legal costs of an action nor for any damages. It is in the public interest for professionals, like pharmacists, to have professional liabilities insurance.

The HPA outlines that contraventions of the HPA and other legislation applicable to the practice of the profession constitute unprofessional conduct. As Mr. Leung failed to comply with the HPA and the Pharmacists and Pharmacy Technicians Profession Regulation, and jeopardized the public interest, he engaged in unprofessional conduct.

Professional liability insurance is an important aspect of the protection of the public because it means that the public is assured that the actions of a pharmacist are covered by insurance if the client suffers a loss due to errors in the pharmacist's work. It is also not practical for members of the public to verify that individuals with whom they interact in a pharmacy have liability insurance. Members of the public are entitled to assume that their pharmacist has professional liability insurance coverage.



Mr. Leung's conduct disregarded both his regulatory obligation to the College and his ethical obligation to his patients and the public to ensure he maintained professional liability insurance while on the clinical register.

Without the audit Mr. Leung's failure to hold insurance in accordance with the HPA and the Pharmacy Technicians Profession Regulation may not have been identified. While Mr. Leung explained why he did not maintain insurance, Mr. Leung had a professional obligation to take active steps to ensure he had insurance. He failed to do so and only became aware of his deficiencies due to the College's conduct. Pharmacists are a self-regulated profession and one of the foundations of a self-regulating profession is that their members are diligent and trustworthy in their practice to ensure public safety. Breaches of these requirements, even if unintentional, have the potential to harm the public, as well as the reputation of pharmacy both within the profession as well as within society as a whole. This is particularly true in light of the College's efforts to inform members of their obligation to maintain insurance and to make members aware of the consequences of failing to maintain insurance.

Mr. Leung practiced for over two years without insurance and he worked, by his own admission, over 500 shifts during this period. A significant number of members of the public were exposed to risk as a result of Mr. Leung's actions.

With respect to Mr. Leung's breaches of his professional declarations, every year the College relies on the accuracy of professional declarations that are made when registered pharmacists renew their practice permit. It is impossible for the College to verify all of the declarations made. Accordingly, it is a fundamental expectation that, when a pharmacist completes their professional declaration, the statements declared can be counted on to be true. False declarations, due to errors in judgement, lack of attention, or any other reason – deliberate or not - have the capacity to harm the public and are therefore taken very seriously.

The Alberta College of Pharmacy's Code of Ethics states in Principle (1) that a pharmacist will act in the best interest of each patient. Principle 10(1) states that a pharmacist will comply with the letter and spirit of the law and Principle 10(2) states that a pharmacist is honest in their dealings. Mr. Leung did not act in the best interests of his patients when he did not have valid insurance. This insurance is a requirement for all regulated members. Mr. Leung was not honest with the College when he did not comply with his declaration and, as discussed, he did not comply with the HPA and the Pharmacists and Pharmacy Technicians Profession Regulation when he failed to maintain insurance as required.

## **V. SUBMISSIONS ON ORDERS**

After the Hearing Tribunal deliberated, the Tribunal advised the parties that it accepted the Admission of Unprofessional Conduct by Mr. Leung and determined that the conduct admitted to constitutes unprofessional conduct. The Hearing Tribunal invited the parties to make submissions with respect to sanction.

The Hearing Tribunal was provided with a Joint Submission on Sanctions and Authorities of the Complaints Director (Exhibit 2). The parties jointly proposed a number of sanctions, including:

1. Mr. Leung would receive a written reprimand in the form of the Hearing Tribunal's written decision.
2. Mr. Leung would pay a fine of \$1,000 on a monthly schedule as directed by the Hearings Director. The fine would be paid in full within 12 months of the date Mr. Leung received a copy of the Tribunal's written decision.
3. Mr. Leung would pay all the costs of the investigation and hearing to a maximum of \$7,000. Payment would occur in accordance with the monthly payment schedule directed by the Hearings Director and the costs would be paid in full within 24 months of the date of Mr. Leung received a copy of the Tribunal's written decision.

Mr. Chen explained that there are four main purposes for imposing sanctions on members found to have engaged in unprofessional conduct: protection of the public, maintaining the integrity of the profession, fairness to the member, and deterrence.

Mr. Chen suggested the Tribunal should, in arriving at its decision on the appropriate sanctions, take into account the factors referenced in *Jaswal vs. Medical Board (Newfoundland) (1996)*, 42 Admin L.R. (2d) 233. Mr. Chen reviewed the factors and submitted:

- *Nature and gravity of proven allegations/degree to which the conduct was clearly regarded as unprofessional conduct:* Mr. Leung's failure to uphold three statutory declarations or maintain professional liability insurance for more than a two year period is conduct that placed the public at risk and is serious enough to constitute unprofessional conduct. Nonetheless, the conduct was on the lower end of the spectrum of unprofessional conduct and was not as serious as a drug diversion, false claims to third party insurers or a boundary violation.
- *Age and experience of the offender:* Mr. Leung has been registered with the College since 2006. Mr. Leung would have known, or should have known, the expectations of a pharmacist with respect to maintaining professional liability insurance.
- *Previous character of a member and prior findings of unprofessional conduct:* Mr. Leung had no previous history of complaints or findings.
- *Number of times the offence occurred:* The unprofessional conduct occurred in three renewal cycles, resulting in three false declarations, and between the periods of July 2018 and September 2020, Mr. Leung practiced without professional liability insurance during approximately 534 pharmacist shifts.
- *Role of the member in acknowledging what occurred:* This was a clear mitigating factor in this case. Once Mr. Leung was made aware of the situation,

he admitted to his error, and took steps to remedy his error and obtained the required insurance. Mr. Leung also admitted the allegations as part of the hearing.

- *The presence or absence of any mitigating circumstances:* Mr. Leung admitted his error and remedied the error, which showed his understanding of the seriousness of the unprofessional conduct.
- *The need to promote deterrence:* This means the sanctions should be such that Mr. Leung does not repeat his conduct, and that the sanctions send a message to others in the profession so that similar conduct does not arise. This goes back to the members of the profession knowing what they need to do as members of a self-regulating profession. Self-regulating profession and the framework that upholds it would fail if members cannot be trusted to comply with what is expected of them. They must be trusted to do what they say and uphold what they say they will do. With regards to general deterrence of the larger membership, it is important that the sanctions imposed remind members of the expectation of being diligent in their understanding of professional declarations, ensuring that members follow through on the requirements of professional declarations, and are aware of the consequences of failing to do so.
- *The need to maintain public confidence in the integrity of the profession:* It is important, through discipline proceedings, to send a clear message to legislators and to the public that the profession takes the requirements of the HPA and the regulation seriously and that there will be appropriate sanctions for breaches of professional obligations and requirements.
- *The range of sanctions in other similar cases:* The Joint Submission on Sanctions and Authorities of the Complaints Director contained two hearing tribunal decisions, the *Decision of the Hearing Tribunal of the Alberta College of Pharmacy in the Matter of Shahama Alsabe* and the *Decision of the Hearing Tribunal of the Alberta College of Pharmacy in the Matter of Kar Leung*, where pharmacists had made two false declarations over a period of two years and practiced without insurance during those two years. Mr. Chen outlined the sanctions imposed in the decisions and explained that the agreed penalties outlined in the Joint Submission on Sanctions in Mr. Leung's case mirrored the two decisions.

Mr. Chen also discussed the cases of *R v Anthony Cook*, 2016 SCC 43, and *Rault v Law Society of Saskatchewan*, 2009 SKCA 81, which state that joint submissions on sanctions should be given deference by Hearing Tribunals as they show cooperation between both parties to reach an agreement on penalties. He explained that, should the Hearing Tribunal intend to stray from the Joint Submission on Sanctions, the legal test for this action is a high bar - meaning that the proposed sanctions would have to be found to be drastically against the public interest in order for the agreed sanctions to be rejected by the Hearing Tribunal.

In conclusion, Mr. Chen submitted the sanctions met the sentencing principles as well as the public interest test. They would ensure specific deterrence with respect to Mr. Leung and met the principles of general deterrence to tell the profession that this conduct is serious and will attract serious consequences. Lastly, the sanctions protected the public and the integrity of the profession.

Mr. Leung stated he was taking ownership of how he had a poor system in place and that his system for getting professional liability insurance had changed as he is now doing it all manually and not having a system where he did not have ownership. Mr. Leung stated he is learning from his mistake and that he corrected it.

## **VI. ORDERS**

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

The Hearing Tribunal acknowledged that deference should be provided to Joint Submissions on Sanctions and that the Hearing Tribunal ought not to depart from the joint submission unless the proposed sanctions would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

The Hearing Tribunal considered the orders that were jointly proposed. The Hearing Tribunal took into account all of the factors discussed in the *Jaswal* decision and the submissions of the parties, including the range of sanctions previously ordered in similar cases, Mr. Leung's experience as a pharmacist, the absence of previous discipline history, the seriousness of Mr. Leung's breach of his declarations which occurred on three separate occasions, the length of time he failed to maintain professional liability insurance which was approximately 27 months, the significant number of shifts worked by Mr. Leung without insurance, and Mr. Leung's admission and cooperation with the College.

Mr. Leung's conduct, while not the most egregious conduct, is still serious. He failed to comply with his regulatory obligations for a significant period of time and repeatedly made false declarations. His conduct created the potential for harm to the public and jeopardized the public interest. Mr. Leung's conduct was significant given its continuing and repeated nature. Mr. Leung was also an experienced pharmacist and there is no excuse for his actions.

Mr. Leung's acknowledgement of what occurred, and his honesty and cooperation were mitigating factors to be considered against the serious and repeated conduct. In addition, there was an absence of aggravating factors such as a previous discipline history or significant impact on patients.

Finally, the sanctions proposed were consistent with previous decisions.

There is a need to ensure that Mr. Leung, as well as other members of the profession, are aware that this type of conduct will not be tolerated. The sanction imposed must deter future conduct of this nature and maintain the public's confidence in the integrity of the profession.

In this case, the reprimand and fine will serve as an appropriate deterrent to Mr. Leung. They will also demonstrate to other members of the profession and the public that the College will take appropriate action if a member fails to maintain professional liability insurance, even when the conduct is not deliberate and even when there is an absence of any evidence of specific harm resulting from the lack of insurance.


It is appropriate that Mr. Leung be responsible for costs of the hearing and investigation, as it was his conduct that necessitated the proceedings. Nonetheless, the cap on the total costs payable was appropriate given the circumstances, particularly Mr. Leung's early admission and cooperation throughout.

In conclusion, the Hearing Tribunal agreed that the proposed orders were appropriate having regard to the *Jaswal* factors and the principles that are relevant in assessing sanction in the professional discipline context. Specifically, the Hearing Tribunal found that the sanctions would deter both Mr. Leung and the profession at large from similar unprofessional conduct in the future. The sanctions also serve the public's interest and uphold the integrity of the profession.

In light of the above, the Hearing Tribunal made the following orders pursuant to s. 82 of the HPA:

1. Mr. Leung shall receive a written reprimand. This decision shall serve as a written reprimand for Mr. Leung.
2. Mr. Leung shall pay a \$1,000 fine. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director. The fine shall be paid in full within 12 months of the date Mr. Leung receives a copy of the Hearing Tribunal's written decision.
3. Mr. Leung shall be responsible for payment of all costs of the investigation and hearing, to a maximum of \$7,000. Payment will occur in accordance with a monthly payment schedule as directed by the Hearings Director. The costs shall be paid in full within 24 months of the date Mr. Leung receives a copy of the Hearing Tribunal's written decision.

Signed on behalf of the Hearing Tribunal by the Chair on May 31, 2021.

Per:   
Anita McDonald (Jun 1, 2021 14:19 MDT)  
Anita McDonald, Chair