

PROVINCE OF NEW BRUNSWICK
NEW BRUNSWICK PHARMACY ACT, 2014, C.9, N.B.
NEW BRUNSWICK COLLEGE OF PHARMACISTS

IN THE MATTER OF ALLEGATIONS OF PROFESSIONAL MISCONDUCT
AGAINST:

YVONNE MOORE, PHARMACIST LICENSE 2278, THE MEMBER

**DECISION OF THE DISCIPLINE AND FITNESS TO PRACTISE COMMITTEE
ON MERITS AND SANCTION**

Hearing held at the Delta, Moncton, N.B., on May 4th, 2016.

PANEL MEMBERS:

Trudi Buote - Chairperson
Greg MacFarlane - Member
Priscilla Gordon - Member
Brian King - Member
Philip Paradis - Member
Bonnie White - Member

APPEARANCES:

Sylvie Michaud, Esq. for the College
Sam Lanctin, Registrar of the College

Daniel Leger, Esq. for Yvonne Moore did not appear; however, an Agreed Statement of Facts and a Joint Proposal on Order were submitted by the parties.

1. The Discipline and Fitness to Practise Committee of the New Brunswick College of Pharmacists has been directed by its Complaints Committee to hear and determine allegations of professional misconduct against YVONNE MOORE, being a complaint that YVONNE MOORE did remove a controlled substance, Fiorinal C1/2, from her place of employment, on August 26, 2015 and on at least one other occasion, without a legal prescription, at DRUGStore Pharmacy, Loblaw Co., in Fredericton, New Brunswick.

This matter is proceeding by way of an Agreed Statement of Facts. The member did not appear for the hearing, nor was she represented.

2. The members of the panel have taken into consideration all of the evidence provided, including the proof of service (Exhibit 1), the agreed statement of facts (Exhibit 3) and the submissions by College's counsel regarding the jurisprudence and case laws.

Proper Service

3. The panel is satisfied that Ms. Moore was given reasonable notice of this proceeding which included the date, time and place.

4. The New Brunswick Pharmacy Act, 2014, provides:

106(2) Where a respondent fails to attend or remain at any proceeding under this Part, the panel conducting the proceeding may, on proof that the respondent was given reasonable notice of the proceeding, proceed in the absence of the respondent and make any order that it could have made had the respondent been in attendance or represented by counsel.

106(2) Si l'intimé omet de comparaître dans une instance régie par la présente partie ou s'en absente, le souscomité en fonction, constatant la suffisance de l'avis qui lui a été donné, peut poursuivre en son absence et rendre toute ordonnance qu'il aurait pu rendre si l'intimé avait été présent ou représenté par avocat.

5. Consequently, pursuant to section 106(2) of the Act, the panel decided to proceed in the absence of Ms. Moore.

Disposition on Guilt

6. The Agreed Statement of Facts filed as Exhibit 3 states the following:

Allegations of Professional Misconduct

The allegations of professional misconduct against Yvonne Moore (the "Member") are set out in the Notice and Charge:

The charge is that the member did remove a controlled substance, Fiorinal C1/2, from her place of employment, on August 26, 2015 and on at least one other occasion, without a legal prescription.

The conduct of YVONNE MOORE constitutes:

a contravention of:

1. A federal or provincial law or municipal by-law with respect to the distribution, sale or dispensing of any drug or mixture of drugs, and in particular, sections C.01.041 and/or G.03.002 of the *Food and Drug Regulations*, C.R.C., c. 870, as amended
2. Section 31 of the *Narcotic Control Regulations*, C.R.C., c.1041, as amended
3. The *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, section 4, and the Regulations thereto; and
4. the New Brunswick Pharmacy Act, 2014, c.9, the regulations, the *Code of Ethics* referenced in subsection 6.6(1) of the Regulations and enacted pursuant to subsection 10(1) of the *Act* or practice directives of the New Brunswick College of Pharmacists

and therefore is:

Professional misconduct as defined in the *New Brunswick Pharmacy Act*, 2014, including s. 69, and s. 6.7 , (e), (f), , (j), (n), (q), (r), (u), (y) and (cc) of the Regulations of the New Brunswick College of Pharmacists, 2015.

Member's Background

The Member first became a member of the New Brunswick College of Pharmacists (the "College"), as a Pharmacist, in 2002. At the relevant times, the member was employed as a staff pharmacist in New Brunswick until her termination in August 2015.

Notification to the College

On Friday, August 28, 2015, the College received information from the Member's employer in writing confirming that the Member's employment had been terminated on August 27, 2015 for cause, after she confessed to stealing Fiorinal capsules and subsequently ingesting them.

Appointment of Investigators

The Registrar/Administrator of Complaints for the College filed a complaint against the Member on September 3, 2015, and appointed investigators to inquire into and examine the practice of the Member. The investigation findings can be summarized as follows:

- The Member was dismissed for cause from her employment with Loblaw Companies Limited on August 27, 2015.
- The Member admitted to theft on two separate occasions, admitted to taking and ingesting a total of 4 Fiorinal C1/2 capsules.
- The police were called and the Member was charged with theft and given a court date.
- The Member assured the Registrar verbally and in writing on September 3, 2015 that she would not work until this matter is resolved.
- There is no evidence that the Member stole more than what she has admitted to.
- There is no evidence that the Member practiced pharmacy while unfit to do so.

Referral to Discipline

On October 2, 2015, the College convened a panel to review the complaint filed on September 3, 2015 against the Member. The Panel reviewed the relevant material and decided to refer the allegations of professional misconduct against the Member to the Discipline and Fitness to Practise Committee.

The Member was notified of the Complaints Panel's decision of October 21, 2015 on October 29, 2015.

Admission of Professional Misconduct

The Member admits that he committed the acts of professional misconduct as alleged in the Notice and Charge.

7. The panel has reviewed and considered the agreed statement of facts and concludes that Yvonne Moore is guilty as charged, conduct deserving of sanction. The particulars of the charge was read into the record and marked as Exhibit 2.

Disposition of the Sanction Hearing

8. An agreement has been reached on the appropriate Order in this case and a Joint Submission on Order has been filed by the parties. The panel accepts the Joint Submission on Order. In view of the circumstances described in the Agreed Statement of Facts, including the admissions of professional misconduct, and the waiver of appeal, and the fact that Ms. Moore voluntarily participated in an alternative measures resolution program, the panel of the Discipline and Fitness to Practise Committee makes the following Order in regard to sentencing of Ms. Moore:

- a. Directing the Registrar to suspend the Member's licence for a period of 12 months. As the member voluntarily undertook not to work until the issue was resolved, since September 3, 2015, the College shall credit this towards the terms of the suspension. The suspension will therefore end on September 2, 2016.
- b. Directing the Member to pay a fine to the College in the amount of \$2,000.00 within 30 days of the date of this Order.
- c. That the Member be named in the publication of this case on the College's website, in a section accessible by the public, for a 2 year period after this Order and once in an update to College members.
- d. That the Member be prohibited from serving as the licensed manager of a pharmacy for a period of 2 years from the date the member returns to practice as a pharmacist.
- e. That the Member be prohibited from owning (in whole or in part) a pharmacy for a period of 2 years from the date of the member returns to practice as a pharmacist.
- f. That the member be prohibited from serving as a preceptor for a period of 2 years from the date the member returns to practice as a pharmacist.
- g. Directing the Member to acknowledge wrong doing in writing. The Agreed

Statement of Facts serves this purpose.

- h. That the Member receives a formal written reprimand which will remain on her College file for a period of 3 years.
- i. Directing the Member to complete an educational program on ethics and/or substance abuse as directed by the Registrar before conditions are removed from her license.
- j. Directing the Member to pay costs to the College in the amount of \$2,500.00 within 30 days of the date of this Order.
- k. Directing the Registrar to impose specified terms, conditions or limitations on the Member's Licence and directing the Member to abide by all of the conditions prior to returning to work as a pharmacist, and in particular:
 - i. The Member's license status will immediately be modified to *Active Pharmacist, Direct Patient Care, with Conditions*, and her name will be entered on the *Active Pharmacist, Direct Patient Care Conditional Register*;
 - ii. The Member shall provide the Registrar with proof that she has received medical care and dependence treatment and is deemed fit to return to practice, by her physician and a physician or psychologist with expertise in addiction issues;
 - iii. The Member shall disclose to the Supervising Pharmacist/preceptor the particulars of the conditions of this return to practice;
 - iv. The Member shall practice under the direct supervision of the Supervising Pharmacist/preceptor for a period of 4 weeks upon return to practice to refresh the member's knowledge base and skills, after which the Registrar will review the progress of the member and the requirement for supervision will be reassessed (the Registrar may choose to rescind this requirement or extend it for an additional period of time);
 - v. Inventory counts of straight narcotic & controlled substances shall

be performed monthly for 1 year, or as directed by the Registrar and reported as required;

- vi. The Member shall, commencing on the date of the member's return to practicing status and for the duration of the timelines provided in this Order, provide the Registrar reports from the member's physician at six (6) month intervals (or as required) respecting the current status of the member's fitness to practice, including documentation respecting the Member's compliance with any treatment protocol prescribed by the Member's physician(s) or other caregiver(s);
- vii. The family physician, or any other health professional caring for the Member are directed to contact the Registrar to provide periodic updates about the Member's current fitness to practice and compliance with treatment protocols that have been recommended or prescribed, and shall contact the Registrar if the Member fails to comply with treatment modalities;
- viii. The Member shall abstain from any mood altering drugs except as prescribed and will provide the Registrar copies of all prescriptions that the Member may receive from a treating physician, or documentation from the Member that she has received prescription medication in the course of admission to a medical institution or administered nonprescription narcotic medication to themselves for the purpose of selfmedication;
- ix. The Member shall submit to blood and urine tests, immediately prior to her return to practice, and when requested on a random basis to do so by the Registrar, on the understanding that any failed report will result in immediate suspension of the Member's license; the Member shall bear the cost of these tests;
- x. The Member shall provide the Registrar a statutory declaration confirming that the Member has not practiced the profession of pharmacy while her license was surrendered;

xi. Throughout the period of the timelines set out in this Order, the Member shall:

1. Continue to access medical care and dependence counselling; and
2. Remain in any rehabilitation or counselling program recommended by the member's medical provider(s);

xii. The Member will provide evidence of Continuing Education activities required for license renewal for the current licensing year;

xiii. The Member will notify the Registrar of place(s) of employment and report changes of employment to the Registrar within 24 hours thereof;

xiv. The Member may submit an application to the licensed as a pharmacist without condition once the terms of this Order are complete, unless otherwise agreed to with the Registrar;

xv. The Member shall not:

1. Serve as the licensed manager of a pharmacy for a period of 2 years from the date the Member returns to practice as a pharmacist;
2. Own (in whole or in part) a pharmacy for a period of 2 years from the date the Member returns to practice as a pharmacist;
3. That the Member be prohibited from serving as a preceptor for a period of 2 years from the date the Member returns to practice as a pharmacist;

xvi. The Supervising Pharmacist/preceptor shall:

1. Engage the Member as a pharmacist in accordance with this Order;
2. Monitor the performance and progress of the Member, and provide the Registrar the progress reports required in accordance with this Order; and
3. Advise the Registrar about the conduct of the member should


the Supervising Pharmacist observe it to be illegal, unprofessional or incompetent in nature; or, not in compliance with this Order;

xvii. The Supervising Pharmacist/preceptor will have the right to terminate immediately his obligations hereunder and to end the supervised practice set out in this Order if the Member fails to comply with any of the Member's obligations under this Order, in which case the Supervising Pharmacist/preceptor shall have no further obligations to the Member. The Supervising Pharmacist/preceptor shall advise the Registrar immediately if the supervised practice is terminated.

xviii. The Member's status as a practicing member be automatically suspended should the member fail to meet any of the responsibilities outlined in this Order;

xix. This Order shall endure for two years from the date that the Member is reinstated as a practising member or until such time that all requirements outlined in this Order have been met to the satisfaction of the Registrar. The Supervising Pharmacist/preceptor's obligations under this Resolution are in force as noted in this Order, subject to earlier termination in accordance with the terms of this Order.

Dated at Hampton, New Brunswick on July 18, 2016


Trudi Buote
On behalf of the panel

Trudi Buote - Chairperson
Greg MacFarlane - Member
Priscilla Gordon - Member
Brian King - Member
Philip Paradis - Member

Bonnie White - Member