

PROVINCE OF NEW BRUNSWICK

NEW BRUNSWICK PHARMACY ACT, 2014, S.N.B. 2014, C. 9;

NEW BRUNSWICK COLLEGE OF PHARMACISTS;

IN THE MATTER OF ALLEGATIONS OF PROFESSIONAL MISCONDUCT AGAINST:
DIANE ROY, Pharmacist Licence #2073

ORDER OF THE DISCIPLINE
AND FITNESS TO PRACTICE COMMITTEE

WHEREAS the complainant, *CLIENT AA* (the “Complainant”), filed on November 7, 2016 a complaint (the “Complaint”) against Diane Roy (the “Member”);

AND WHEREAS the Complaints Committee of the New Brunswick College of Pharmacists (the “NBCP”) reviewed this complaint on April 21, 2017 and determined that this matter should be referred to the Discipline and Fitness to Practice Committee in accordance with the *New Brunswick Pharmacy Act, 2014* and the *Regulations of the New Brunswick College of Pharmacists* (the “NBCP Regulations”) for a formal hearing;

AND WHEREAS a disciplinary hearing was scheduled to take place on February 26, 2018 at the Delta Beauséjour Hotel, located at 770 Main Street, Moncton, New Brunswick, at 9:15 a.m. (“Disciplinary Hearing”);

AND WHEREAS an *Agreed Statement of Facts and Joint Submissions on Penalty* was formally entered into by the parties on February 26, 2018 in an attempt to settle this matter without a full hearing being necessary;

AND WHEREAS the *Agreed Statement of Facts and Joint Submissions on Penalty* represents to be in the overall interest of the profession and the public, mainly through unreserved acceptance of responsibility by the Member in relation to the specific allegations of professional misconduct raised in the Complaint, pertaining, more specifically, to the disclosure of a client’s personal and confidential information to a third party, including the following breaches : Statement IV of the NBPC *Code of Ethics* (2003), sections 4(2), 4(4) and 4(11) of the *Model Standards of Practice for Canadian Pharmacists* (2009), subsection 17.25 of the NBCP Regulations, and subsection 76(3) of the New Brunswick *Personal Health Information Privacy and Access Act* (PHIPAA);

AND WHEREAS the Member has never previously been the subject of a complaint of professional misconduct and/or incompetence;

AND WHEREAS the Member has assumed responsibility for her actions and has admitted guilt;

AND WHEREAS the sanctions imposed on the Member are appropriate based on similar findings of misconduct in the case law;

AND WHEREAS additional training on ethics, with focus on the duty of confidentiality, will provide the Member with an opportunity to review her professional standards;

AND WHEREAS the *Agreed Statement of Facts and Joint Submissions on Penalty* entered into by the parties avoids a full hearing on the matter wherein significant time, energy, legal fees and other expenses will be spared;

THE PANEL OF THE DISCIPLINE AND FITNESS TO PRACTICE COMMITTEE ORDERS THE FOLLOWING:

1. This *Agreed Statement of Facts and Joint Submissions on Penalty* is accepted and approved by the Discipline and Fitness to Practice Committee as it satisfies the overall goals of the regulation of the profession by demonstration of acceptance of responsibility for this matter by the Member and resolves it in a manner consistent with the *New Brunswick Pharmacy Act, 2014* and the NBCP Regulations.
2. The Member will therefore be subject to the following sanctions:
 - i. **Suspension:** The Member's licence will be suspended for a period of three (3) months, this suspension having already been served due to the loss of her employment with Jean Coutu Pharmacy (Bathurst, N.B.) on or around October 3, 2016 because of the allegations made against her in the Complaint, and considering that the Member has been unemployed for a period of about ten (10) months;
 - ii. **Reprimand:** The Member will receive a written reprimand that will remain in her file with the NBCP for a period of three (3) years;
 - iii. **Terms, conditions and limitations:**
 - a. The Member is prevented from serving as a preceptor to pharmacy students and from performing the role of pharmacy manager for a period of two (2) years from the date of issuance of an Order by the Discipline and Fitness to Practice Committee; and
 - b. The Member will successfully complete, at her own expense, within six (6) months of the issuance of this Order by the Discipline and Fitness to Practice Committee, additional training on ethics, with focus on the duty of confidentiality, as directed by the Administrator of Complaints and/or the Registrar;

- iv. **Fine:** The Member will pay to the NBCP a fine in the amount of \$2,000.00 within thirty (30) days of the issuance of this Order;
 - v. **Publication:** The Member's name will be published on the NBCP's Website, in a section accessible to the public, for a period of two (2) years following the issuance of this Order and once in an update to NBCP's Members. The decision will also be published indefinitely in full on the Canadian Legal Information Institute (CanLII) Website; and
 - vi. **Costs:** The Member will pay to the NBCP costs in the amount of \$15,000.00 payable by equal monthly installments over the course of a period of three (3) years from the date of this Order.
3. The Member acknowledges that in the event that she is in default of payment, either of the fine or the costs mentioned above, the NBCP reserves the right to avail itself of the rights and/or powers provided in subsection 110(4) of the *New Brunswick Pharmacy Act, 2014*, specifically to suspend the Member's license until such time as the payments are made.

DATED at Moncton, New Brunswick, this 26th day of February, 2018.

A panel of the Discipline and Fitness to Practice
Committee of the New Brunswick College of
Pharmacists