

## **DISCIPLINE DECISION**

Pursuant to the Notice of Hearing (the “Notice”) dated March 19, 2019, a hearing was convened by the Discipline Committee of the College of Pharmacists of Manitoba (the “College”) at the offices of the College of Registered Nurses of Manitoba, 890 Pembina Highway, Winnipeg, Manitoba, on April 24, 2019, with respect to charges formulated by the Registrar of the College alleging that Mr. Karam Abd El Nour (“Mr. Abd El Nour”), being a pharmacist under the provisions of *The Pharmaceutical Act*, C.C.S.M. c.P60 (“*The Act*”) and a registrant of the College, is guilty of professional misconduct, conduct unbecoming a member, or displayed a lack of skill or judgment in the practice of pharmacy or operation of a pharmacy, or any of the above, as described in section 54 of *The Act*, in that, between July 2018 and September 2018, at Niverville Pharmacy, located at 72 Main Street, Niverville, Manitoba, in his capacity as pharmacy owner and/or manager, Mr. Abd El Nour:

1. on or about July 28, 2018 and September 7, 2018, Mr. Abd El Nour improperly transported and improperly disposed of drugs listed in a schedule to the Controlled Drugs and Substances Act, S.C. 1996, c. 19 to his home in contravention of sections 2.4.1.3 and 2.4.1.4 of the College’s Practice Direction: Drug Distribution; sections 8(1) and 43 of the Narcotic Control Regulations, CRC, c1041; section G.03.012 of the Food and Drug Regulations C.R.C., c.870 to the Food and Drugs Act, R.S.C., 1985, c. F-27; section 2(2)(b) of the of the Benzodiazepines and Other Targeted Substances Regulations; and, Statement 1 of the College’s Code of Ethics, or any of them.
2. [combined to create Count #1]

The hearing into the charges convened on April 24, 2019. Mr. Joseph Pollock appeared as legal counsel for the Discipline Committee Panel (the “Panel”). Mr. Jeff Hirsch (“Mr. Hirsch”) appeared as counsel on behalf of the Complaints Committee. Mr. Grant Stefanson appeared with and as counsel on behalf of Mr. Abd El Nour.

A Statement of Agreed Facts (the “Statement”) was filed by the parties which indicated that:

1. Mr. Abd El Nour graduated with his pharmacy degree from the University of Cairo in 1982;
2. Mr. Abd El Nour was registered as a pharmacist under *The Act* since October 3, 2001;
3. at all times material to this proceeding, Mr. Abd El Nour was a member of the College as a practising pharmacist in Manitoba;
4. Mr. Abd El Nour practised retail pharmacy at Emerson Pharmacy, and The Real Canadian Wholesale Club (later renamed Drugstore Pharmacy) and became the pharmacy owner and manager of Niverville Pharmacy on or about September 25, 2002, to the date of the hearing;
5. Mr. Abd El Nour had no previous discipline convictions with the College;

6. on September 11, 2018, Mr. Abd El Nour was issued a censure by the Complaints Committee in connection with a complaint relating to his mismanaging returned fentanyl packages resulting in the returned fentanyl patches being stored with stock medication and subsequently dispensed instead of being quarantined for destruction;
7. Mr. Abd El Nour admitted valid service of the Notice dated March 19, 2019, and that the College had complied with the requirements of sub-sections 46(2) and 46(3) of *The Act*;
8. The College would be filing, and Mr. Abd El Nour consented to, an amended Notice of Hearing combining counts 1 and 2 contained in the Notice dated March 19, 2019, to read as follows:
  1. on or about July 28, 2018 and September 7, 2018, Mr. Abd El Nour improperly transported and improperly disposed of drugs listed in a schedule to the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 to his home in contravention of sections 2.4.1.3 and 2.4.1.4 of the College's *Practice Direction: Drug Distribution*; sections 8(1) and 43 of the *Narcotic Control Regulations*, CRC, c1041; section G.03.012 of the *Food and Drug Regulations* C.R.C., c.870 to the *Food and Drugs Act*, R.S.C., 1985, c. F-27; section 2(2)(b) of the of the *Benzodiazepines and Other Targeted Substances Regulations*; and, Statement 1 of the College's *Code of Ethics*, or any of them.
9. Mr. Abd El Nour had no objection to any of the Panel members nor to legal counsel to the Panel on the basis of bias, a reasonable apprehension of bias, or a conflict of interest;
10. Mr. Abd El Nour admitted that he had reviewed the Notice as well as the Statement. He admitted the truth and accuracy of the facts in the Statement and that the witnesses and other evidence available to the College would, if called and otherwise adduced, be substantially in accordance with the facts; and
11. Mr. Abd El Nour tendered no evidence and made no submissions on the issue of professional misconduct, other than to admit that, for the purposes of these proceedings only, the conduct hereinafter described demonstrates a lack of judgment in the practice of pharmacy or operation of a pharmacy and constitutes unskilled practice of pharmacy as described in section 54 of *The Act*.

Mr. Abd El Nour entered a plea of guilty to Count 1 as contained in the Amended Notice of Hearing.

The following admissions were made by Mr. Abd El Nour in the Statement:

1. On July 28, 2018, Mr. Abd El Nour transported a box containing 198 narcotic and controlled substances in the trunk of his personal vehicle to his home for destruction.

2. Mr. Abd El Nour, with the assistance of another pharmacist who witnessed the destruction, then proceeded to destroy the drugs by flushing the slurry he created of the expired drugs down the toilet at his home.
3. On September 6, 2018, the College conducted an unannounced site visit at Niverville Pharmacy, at which time Mr. Abd El Nour was informed by the College that he was not to transport narcotics and controlled drugs to his home for the purpose of destruction, and was not permitted to destroy drugs at his home.
4. On September 7, 2018, Mr. Abd El Nour transported a box containing five narcotic and controlled substances in the trunk of his personal vehicle to his home for destruction.
5. Mr. Abd El Nour, with the assistance of another pharmacist who witnessed the destruction, then proceeded to destroy the drugs by flushing the slurry he created of the expired and patient-returned drugs down the toilet at his home.
6. The narcotics and controlled substances transported and destroyed by Mr. Abd El Nour are listed in schedules to the *CDSA*.

Mr. Hirsch advised that the parties agreed upon the following joint disposition, that Mr. Abd El Nour:

1. be fined in the amount of \$4,000.00; and,
2. be ordered to pay a contribution to the costs of the investigation and hearing in the amount of \$5,000.00.

After having reviewed the authorities provided to the Panel and having considered the joint recommendation on disposition submitted to the Panel, the Panel ordered that Mr. Abd El Nour:

1. pay a fine in the amount of \$4,000.00; and,
2. pay a contribution to the costs of the investigation and hearing in the amount of \$5,000.00.

In arriving at its decision, the Panel considered that:

1. The charges against Mr. Abd El Nour are serious in nature and not to be taken lightly as they demonstrate a lack of judgment in the practice of pharmacy or operation of a pharmacy and constitutes unskilled practice of pharmacy;
2. Mr. Abd El Nour co-operated with the College throughout the investigation process;
3. Mr. Abd El Nour developed and implemented new policies and educated the staff of Niverville Pharmacy to ensure compliance with the requirements for the destruction of drugs; and,
4. Mr. Abd El Nour is now aware of the environmental impacts of non-compliance with the requirements for the destruction of drugs.

DATED at Winnipeg, Manitoba this 4<sup>th</sup> day of June, 2019.