

THE COLLEGE OF PHARMACISTS OF MANITOBA

In the matter of: *The Pharmaceutical Act, C.C.S.M. c. P60*

And in the matter of: **Lance Breland, a pharmacist registered with the College of Pharmacists of Manitoba**

**DECISION AND ORDER OF THE DISCIPLINE COMMITTEE**

Pursuant to a Notice of Hearing dated December 7, 2022 (the "Notice"), a hearing was originally convened on February 22, 2023 by the Discipline Committee of the College of Pharmacists of Manitoba (the "College") at the offices of Thompson Dorfman Sweatman LLP, 242 Hargrave Street, Suite #17, Winnipeg, Manitoba, R3C 0V1, but adjourned to March 14, 2024, with respect to charges formulated by the College alleging that Lance Breland ("Mr. Breland"), being a pharmacist under the provisions of *The Pharmaceutical Act, C.C.S.M. c. P60* (the "Act") and a former registrant of the College, is guilty of professional misconduct, conduct unbecoming a member, or has displayed a lack of skill or judgment in the practice or operation of a pharmacy, or any of the above, as described in section 54 of the Act, in that, between approximately November 13, 2020 and March 8, 2021, Mr. Breland:

1. failed to maintain professional liability insurance required to maintain licensure in 2020 and 2021, or either of them, in contravention of sections 15(1)(d) of the Act, section 123 of the *Pharmaceutical Regulation, Man. Reg. 185/2013* (the "Regulation"), and/or Statements VII, VIII and X of the *Code of Ethics* (the "Code"), or any of them;
2. failed to disclose to the registrar that his liability insurance for his 2020 practising pharmacist licence had lapsed, in contravention of section 20 of the Regulation;
3. failed to disclose to the registrar that his liability insurance for his 2021 practising pharmacist licence had lapsed, in contravention of section 20 of the Regulation; and
4. failed to produce to the College investigator records, documents or things in his possession or under his control pertaining to his professional liability insurance, in contravention of subsection 33(10) of the Act and/or Statement VIII of the Code.

On March 14, 2024, Mr. Jeffrey Hirsch ("Mr. Hirsch") and Ms. Sharyne Hamm ("Ms. Hamm") appeared as counsel on behalf of the Complaints Committee. Mr. Breland did not attend the hearing and no one appeared on his behalf, despite having received notice of the hearing. Ms. Gabrielle Lisi ("Ms. Lisi") appeared as counsel to the Discipline Committee (the "Panel").

Ms. Hamm advised the Panel that Mr. Breland had indicated that neither he nor his agent intended to attend the hearing or appear before the Panel.

After hearing from Ms. Hamm, the Panel agreed to adjourn the hearing for fifteen minutes to permit Mr. Breland additional time to arrive and attend the hearing. Neither Mr. Breland nor his agent appeared during that time. After the 15-minute adjournment, the Panel then elected to proceed with the hearing in Mr. Breland's absence pursuant to section 53 of the Act.

As Mr. Breland did not attend the hearing and no one appeared on his behalf, the Panel entered a plea of not guilty to all counts on behalf of Mr. Breland.

Ms. Hamm on behalf of the Complaints Committee advised the Panel at the outset of the hearing that it was not seeking suspension or cancellation of Mr. Breland's pharmacist licence should the Panel find Mr. Breland guilty on the charges, and that accordingly, it intended to proceed with the hearing on affidavit evidence alone. As the Complaints Committee was not seeking a suspension of Mr. Breland's registration or licence, the Panel agreed to proceed with the hearing on affidavit evidence alone pursuant to section 48(6) of the Act.

Ms. Hamm submitted before the Panel the affidavit of Dr. Brent Booker, affirmed March 11, 2024, and the affidavit of Janice Nesbitt, affirmed March 7, 2024, and the affidavit of Trista Feniuk, affirmed March 12, 2024, which indicated that:

1. Mr. Breland was a member of the College at all times material to this proceeding;
2. Mr. Breland was validly served with the Notice of Hearing dated December 7, 2022;
3. Mr. Breland had provided his written consent to commence the hearing on a date beyond the 120-day period referenced in subsection 46(2) of the Act;
4. the College complied with the jurisdictional requirements of subsection 46(3) of the Act; and
5. so far as the Complaints Committee was aware, Mr. Breland did not raise any objection to the composition of the Panel or the legal counsel of the Panel on the basis of bias, reasonable apprehension of bias or a conflict of interest.

The Panel heard submissions from Ms. Hamm that confirmed the allegations of all counts contained in the Notice of Hearing dated December 7, 2022.

After reviewing the authorities and the affidavit evidence provided to the Panel and hearing the submissions of counsel for the Complaints Committee, the Panel retreated to deliberate and reconvened the hearing to inform the Complaints Committee of the decision of the Panel.

The Panel found that pursuant to section 54 of the Act, Mr. Breland is guilty of professional misconduct, conduct unbecoming a member and has displayed a lack of knowledge, skill and judgment in the practice or operation of a pharmacy on all counts. The Panel advised that written reasons would follow.

In arriving at that decision, the Panel considered the affidavit evidence and concluded that:

1. during an investigation into a complaint made against Mr. Breland in November 2019, the College determined that Mr. Breland's professional liability insurance had lapsed;
2. the lapse in Mr. Breland's professional liability insurance occurred in late 2020 and was not rectified by the time Mr. Breland requested that his pharmacist licence be cancelled in March 2021;
3. during the investigation into the lapse of his professional liability insurance, Mr. Breland not only did not cooperate with the College but actively attempted to obstruct the College in its investigation efforts. In particular, Mr. Breland:
  - a. refused to produce to the College investigator copies of records identifying his insurance coverage during the relevant period; and
  - b. directed his insurance broker not to produce to the College investigator his insurance information; and
4. as a result of Mr. Breland's conduct, the College was required to obtain a court order directing the production of records from his insurance broker, incurring significant costs to do so.

#### **Submissions on Penalty**

Having been informed of the finding of the Panel, counsel for the Complaints Committee made submissions on penalty, and submitted to the Panel the affidavit of Dr. Brent Booker, affirmed March 14, 2024.

Ms. Hamm recommended to the Panel that the following penalty be imposed on Mr. Breland:

1. That the reasons for decision of the Panel be published and made available to the public;
2. That Mr. Breland pay a fine of \$2,000;
3. That Mr. Breland, upon resumption of practice, be prohibited from being a pharmacy manager or preceptor for a period of five years; and
4. That Mr. Breland pay a contribution of the costs of the investigation and hearing in the amount of \$10,000.

After reviewing the authorities provided to the Panel regarding disposition and hearing the submissions of counsel for the Complaints Committee, the Panel accepted the recommended disposition of legal counsel for the Complaints Committee and ordered that:

1. the reasons for decision of the Panel be published and made available to the public;
2. Mr. Breland is to be fined \$2,000;
3. Mr. Breland is, upon resumption of practice, to be prohibited from being a pharmacy manager or preceptor for a period of five years; and

4. Mr. Breland is to pay a contribution of the costs of the investigation and hearing in the amount of \$10,000.

In arriving at its decision, the Panel considered:

1. that Mr. Breland had only received one previous complaint despite his having been licensed as a pharmacist almost continuously since 2010;
2. that Mr. Breland repeatedly ignored or failed to respond to communications from the College and indeed, actively attempted to obstruct the College's investigations into the matter by instructing his insurance representative not to communicate with the College;
3. that a portion of the costs associated with the discipline process should be recovered from the member who is guilty of the professional misconduct; and
4. the costs ordered in this decision are less than 20% of the total costs incurred or to be incurred by the College in respect of this matter, which costs exceeded \$50,000.

Based on the foregoing, the Panel is satisfied that this disposition should serve to act as a deterrent, both general and specific, while at the same time ensuring that the public's interest will be protected and the public's confidence maintained.

DATED at Winnipeg, Manitoba this 30<sup>th</sup> day of April, 2024.

THE COLLEGE OF PHARMACISTS OF MANITOBA

Per: Martha Mikulak  
Chair, Discipline Panel