

DECISION OF THE HEARING COMMITTEE

PROVINCE OF NOVA SCOTIA HALIFAX REGIONAL MUNICIPALITY

IN THE MATTER OF: The *Pharmacy Act*, R.S.N.S. 2011, c.55 and Regulations
made thereunder

-and-

IN THE MATTER OF: [REDACTED], Pharmacist (“the Registrant”)

The Hearing Committee convened on November 4, 2024, to consider the proposed Settlement Agreement (attached) being recommended for acceptance by the Investigation Committee regarding the Registrant. During this meeting the Hearing Committee considered the written submissions made by the Registrant’s counsel dated October 2, 2024.

Following the November 4, 2024 meeting, the Committee invited the College of Pharmacists (“the College”) to provide its response to the issues raised in the submissions made on behalf of the Registrant.

On November 8, 2024 the College provided written submissions to the Committee.

The Committee met again on November 26, 2024 to consider the proposed Settlement Agreement and the additional information received.

After reviewing the proposed Settlement Agreement, the Hearing Committee hereby approves the Settlement Agreement as recommended by the Investigation Committee, without amendment, on the basis that the Settlement Agreement meets the requirements of s. 68 of the Regulations, is consistent with the purposes of the College as set out in s. 3 of the *Pharmacy Act*, and falls within a reasonable range of dispositions of the complaint.

The Settlement Agreement is hereby approved.

The Registrant has requested that their identity be redacted from this decision and the Settlement Agreement.

The College provided its position regarding the requested redactions in its submissions of November 8, 2024.

The *Registration, Licensing and Professional Accountability Regulations* provide the Hearing Committee with discretion to direct redactions:

Publication ban imposed by Hearing Committee

75 (1) *If requested by a party to a hearing and after hearing from both parties, the Hearing Committee may impose a publication ban at any time during a hearing, or on some or all of its decision, subject to any terms determined by the Hearing Committee.*

(2) *The Hearing Committee must give reasons for any decision to impose a publication ban.*

The overriding principle considered by the Hearing Committee – in determining whether to impose a publication ban – is that of promoting the public interest and maintaining the confidence of the public to regulate in the public interest.

The Hearing Committee notes that the Registrant has asserted, and the College has not contested, the following points:

- None of the conduct referenced in the Settlement Agreement was related to the practice of Pharmacy;
- The dollar amount associated with the Registrant's conduct was *de minimis* – in the range of \$70 (total);
- The Registrant successfully completed a restorative justice program to address the harms to the community which were caused by the Registrant's actions. The program included making an \$80 donation to Feed Nova Scotia. As a result, no formal criminal proceedings were continued against the Registrant; and
- The Registrant's ability to earn a living may be impaired if the identity of the Registrant is disclosed.

In the specific circumstances presented in this matter, the Hearing Committee finds that redacting the identity of the Registrant from this decision and the Settlement Agreement is in the public interest and serves to maintain the confidence of the public in the College's ability to regulate the profession. This conclusion is based on several factors.

First, none of the actions alleged in the complaint (and acknowledged by the Registrant) involved Pharmacy related activities and the value of the amount involved was *de minimis*.

Second, the Registrant has fulfilled the requirements of the restorative justice program, and no formal criminal proceedings were continued against the Registrant.

Third, redacting the Registrant's identity is consistent with the outcomes achieved through the successfully completed restorative justice program. Publicly disclosing the Registrant's identity in

this process would render the anonymity achieved through the publicly supported restorative justice program meaningless.

Fourth, the public interest is served by permitting the Registrant to continue to practice pharmacy – and the Committee agrees that publishing the Registrant’s identity raises the real risk that the Registrant may not be able to serve the public and earn a livelihood.

In light of all of the above, the Committee views the redactions of the Registrant’s identity as being in the public interest and hereby directs that the redactions be made.

Dated at Halifax this 6th day of December, 2024.

A handwritten signature in cursive script that reads "Harriet Davies". The signature is written in dark ink and is positioned above a horizontal line.

Harriet Davies (Chair)

On behalf of Hearing Committee Members:
Annette Marshall and Haitham Fathalla

Attachment (Settlement Agreement)

IN THE MATTER OF: The *Pharmacy Act*, SNS, 2011, c.11

IN THE MATTER OF: [REDACTED] Registrant [REDACTED]

SETTLEMENT AGREEMENT

[REDACTED] pharmacist in the Province of Nova Scotia and member of the College of Pharmacists (the "**College**"), hereby agrees with, and consents to, the following in accordance with the provisions of the *Pharmacy Act*.

THE COMPLAINT

1. On September 28, 2023, a complaint was filed against [REDACTED] by [REDACTED], [REDACTED] & Nova Scotia (HRM).
2. The complaint alleged that [REDACTED] was arrested and had criminal charges filed against [REDACTED] for one count of fraud under \$5,000, and one count of theft under \$5,000, in relation to incidents at [REDACTED] Nova Scotia. The complaint alleged as follows:
 - that following a review of Closed Circuit Television (CCTV) footage, it was determined that on September 23, 2023, [REDACTED] consumed food items without payment, and moved a box of energy bars from the shelf, reducing the item, and ringing in [REDACTED] own purchase. The total amount involved was \$26;
 - that following a review of CCTV footage, it was determined that on July 22, 2023, [REDACTED] consumed food items without payment and reduced the cost of another item that was not discounted. The total amount involved was \$35.20; and
 - that following a review of CCTV footage, it was determined that on June 16, 2023, [REDACTED] consumed food items without payment. The total amount involved was \$9.00.
3. In [REDACTED] response dated October 23, 2023, [REDACTED] stated that the complaint regarded food consumed while covering pharmacist shifts. [REDACTED] stated that the matter was discussed and resolved at the store. [REDACTED] noted that [REDACTED] took responsibility and made arrangements to make amends. [REDACTED] noted that no criminal charges were laid, nor would they be, as confirmed by the Constable in charge.
4. Following investigation, the Investigation Committee of the College, pursuant to section 50(4)(c)(iii) of the *Pharmacy Act*, referred the complaint to a Hearing Committee for a

formal hearing to consider allegations against [REDACTED] regarding professional misconduct.

THE ALLEGATIONS

5. The Notice of Hearing dated April 9, 2024, alleges:

- a) That [REDACTED] engaged in professional misconduct as a pharmacist, licensed at all material times to practice pharmacy in the Province of Nova Scotia, and working as a pharmacist at the [REDACTED] Nova Scotia location, by committing fraud and/or theft on June 16, 2023 at the [REDACTED] Nova Scotia location, which activity constituted a breach of:
 - i. Value VI of the Code of Ethics;
 - ii. Value X of the Code of Ethics;
 - iii. Section 13 of the Pharmacy Act; and/or
 - iv. Section 39(2) of the Pharmacy Act.
- b) That [REDACTED] engaged in professional misconduct as a pharmacist, licensed at all material times to practice pharmacy in the Province of Nova Scotia, and working as a pharmacist at the [REDACTED] # [REDACTED] Nova Scotia location, by committing fraud and/or theft on July 22, 2023 at the [REDACTED] Nova Scotia location, which activity constituted a breach of:
 - i. Value VI of the Code of Ethics;
 - ii. Value X of the Code of Ethics;
 - iii. Section 13 of the Pharmacy Act; and/or
 - iv. Section 39(2) of the Pharmacy Act.
- c) That [REDACTED] engaged in professional misconduct as a pharmacist, licensed at all material times to practice pharmacy in the Province of Nova Scotia, and working as a pharmacist at the [REDACTED] Nova Scotia location, by committing fraud and/or theft on September 23, 2023 at the [REDACTED] Nova Scotia location, which activity constituted a breach of:
 - i. Value VI of the Code of Ethics;
 - ii. Value X of the Code of Ethics;
 - iii. Section 13 of the Pharmacy Act; and/or
 - iv. Section 39(2) of the Pharmacy Act.

STATEMENT OF FACTS

6. [REDACTED] became a licensed pharmacist in Nova Scotia in [REDACTED]
7. [REDACTED] was licensed to practice pharmacy in the Province of Nova Scotia at all material times.
8. At the time of events described in the complaint, [REDACTED] was providing independent contract pharmacy relief services to numerous companies in Nova Scotia, including [REDACTED]
9. On September 23, 2023, [REDACTED] selected and consumed food items from the [REDACTED] of the [REDACTED] at [REDACTED] Nova Scotia and owned by [REDACTED] without paying. [REDACTED] also removed a box of protein bars from the [REDACTED] of the [REDACTED], returned to the Pharmacy, and reduced the item to 50% off (when it was not on clearance) and rang in [REDACTED] own purchase.
10. On September 23, 2023, [REDACTED] Asset Protection contacted the RCMP who confronted [REDACTED] [REDACTED] was served a Protection of Property Act Notice advising that [REDACTED] was not permitted on the premises of the [REDACTED] for six months. [REDACTED] was served an Appearance Notice by the RCMP in relation to the events of September 23, 2023.
11. The complaint alleged that further investigation revealed that [REDACTED] also:
 - a) removed items from the [REDACTED] without providing payment on June 16, 2023, and July 22, 2023; and
 - b) reduced the price of items at the [REDACTED] which were not on sale and rung [REDACTED] in on July 22, 2023.
12. The RCMP did not issue an Appearance Notice in relation to the June 16, 2023, or July 22, 2023, allegations.
13. Despite being provided an Appearance Notice in relation to September 23, 2023, no formal information was laid by the Crown at [REDACTED] Court appearance date and no charges were filed against [REDACTED]
14. [REDACTED] successfully completed a Restorative Justice program to address the harms to the community which were caused by [REDACTED] actions. The program included making an \$80 donation to Feed Nova Scotia, which exceeded the value of the items/discounts [REDACTED] wrongfully obtained and writing an apology letter. As a result, no formal criminal proceedings were continued against [REDACTED]

ADMISSIONS

15. [REDACTED] admits the allegations set out in the Notice of Hearing and the facts described herein and admits that [REDACTED] actions constitute professional misconduct, as set out in the *Pharmacy Act*.

MITIGATING FACTORS

16. In reaching this Settlement Agreement, the College has taken into consideration the following mitigating factors:

- a) [REDACTED] was cooperative with the investigation process;
- b) [REDACTED] has successfully completed the restorative justice program;
- c) [REDACTED] conduct leading to the criminal charges did not put patients at risk; and
- d) [REDACTED] has admitted professional misconduct and has agreed to enter into this Settlement Agreement in lieu of a contested hearing.

DISPOSITION

17. The College and [REDACTED] agree to the following disposition and settlement of this matter:

- a) A letter of reprimand shall be placed on the file of [REDACTED]. The reprimand shall read as follows:

You are hereby reprimanded for engaging in professional misconduct by breaching the Pharmacy Act (Sections 13 and 39), and the Code of Ethics (Values VI and X) by wrongfully obtaining food items without appropriate payment at the [REDACTED] Nova Scotia location.

- b) [REDACTED] shall pay a fine of \$1,000 to the College within three months of the date of this Settlement Agreement.
- c) The licence of [REDACTED] to practise pharmacy in Nova Scotia shall be suspended for a period of one week. The period of suspension shall be completed within six months of the date of this Settlement Agreement.
- d) [REDACTED] shall pay a portion of the College's costs for this matter to the College, fixed at the amount of \$2,000, within six months of the date of this Settlement Agreement.

- e) [REDACTED] shall enroll in, undertake, and successfully complete, an ethics course, at [REDACTED] cost, approved by the Registrar of the College within 18 months of the date of this Settlement Agreement.

PUBLICATION

18. This Settlement Agreement shall be made public, subject to any publication bans ordered by the Hearing Committee, in accordance with the *Registration, Licensing and Professional Accountability Regulations*, Section 71.

INDEPENDENT LEGAL ADVICE

19. [REDACTED] acknowledges that [REDACTED] has consulted with independent legal counsel, or has had the opportunity to do so, prior to signing this Settlement Agreement. [REDACTED] acknowledges that [REDACTED] has read, understands, and voluntarily consents to the terms of this Settlement Agreement.

EFFECTIVE DATE

20. This Settlement Agreement shall only be effective and binding when it has been recommended for acceptance by the Investigation Committee and approved by the Hearing Committee appointed to hear the matter. The date of this Settlement Agreement shall be deemed to be the date of approval by the Hearing Committee.

DATED at Halifax, Nova Scotia, this 26 day of AUGUST, 2024.

CONSENTED TO:

[REDACTED]

[REDACTED] Registrant [REDACTED]



Beverley Zwicker, CEO and Registrar, NSCP

RECOMMENDED BY:

Lynn Guscott

Lynn Guscott, Vice Chair, Investigation Committee
Nova Scotia College of Pharmacists

Date: _____, 20__

APPROVED BY:

Harriet Davies

Harriet Davies, Chair, Hearing Committee
Nova Scotia College of Pharmacists

Date: Dec 6, 2024