

IN THE MATTER OF A DISCIPLINE HEARING BY A DISCIPLINE COMMITTEE ESTABLISHED PURSUANT TO THE PHARMACY AND PHARMACY DISCIPLINES ACT AND BYLAWS TO INQUIRE INTO THE CONDUCT OF MILIND PATEL, OLATUNJI OBIDIYA, AND ST ENTERPRISES LTD. o/a 33RD STREET PHARMACY

Citation: Saskatchewan College of Pharmacy Professionals v. Milind Patel, Olatunji Obidiya, and St EnterprisesLtd. o/a 3rd Street Pharmacy (Written Reasons)2023SKCPPDC2

Date:2023-01-12

Discipline Committee:

Michael Davis (Chair), Cailee Bell, Bonnie Caven, Marshall Salloum, and Leanne Wong

Counsel:

Paul Wood for Milind Patel, Olatunji Obidiya and ST Enterprises Ltd. o/a 33rd Street Pharmacy

Connor Clyde for the Complaints Committee

Lynsey Gaudin for the Discipline Committee

WRITTEN REASONS

I. INTRODUCTION AND PROCEDURAL HISTORY

1. The Discipline Committee of the Saskatchewan College of Pharmacy Professionals (the “College”) held a virtual hearing on June 28 and October 27, 2022, concerning allegations of professional misconduct and professional incompetence by Milind Patel (“**Mr. M. Patel**”), Olatunji Obidiya (“**Mr. Obidiya**,” and, together with Mr. M. Patel, the “**Members**”), and proprietary misconduct by ST Enterprises Ltd. o/a 33rd Street Pharmacy (the “**Pharmacy**”). Mr. M. Patel is a licensed pharmacist and has been a member of the College since August 18, 2017. Mr. Obidiya is a licensed pharmacist and has been a member of the College since August 20, 2015. The Pharmacy was opened on October 1, 2020, and operates pursuant to a proprietary pharmacy permit issued by the College.

2. It was alleged that Mr. M. Patel is guilty of professional misconduct and/or professional incompetence. A copy of the notice of discipline hearing setting out the particulars of the allegations against Mr. M. Patel was served upon Mr. M. Patel on June 3, 2022. The affidavit of personal service attaching that notice of discipline hearing at Exhibit “A” was filed before the

Discipline Committee as Exhibit P-1. Appendix “A” of that notice of discipline hearing sets out the particulars of the allegations against Mr. M. Patel:

1. In or about April 2021 you accessed information contained on the Pharmaceutical Information Program and eHealth Saskatchewan through eHR viewer without an appropriate authorized health purpose.
2. In or about April 2021, in your position as pharmacist and privacy officer of ST Enterprises Ltd. o/a 33rd Street Pharmacy, you failed to oversee and actively monitor a pharmacy assistant allowing the pharmacy assistant to access information contained on the Pharmaceutical Information Program and eHealth Saskatchewan through eHR viewer without an appropriate authorized health purpose.

3. Such conduct was alleged to constitute a breach by Mr. M. Patel of sections 24(a)-(b), 25(a)-(b) and 65 of *The Pharmacy and Pharmacy Disciplines Act* and sections 5(1)-(2), 6(1)-(2) and 16(a)-(c) of *The Health Information Protection Act*. In addition to the legislative breaches, it was alleged that Mr. M. Patel breached the College’s Regulatory Bylaws (including the Code of Ethics), several of the Model Standards of Practice for Canadian Pharmacists, as well as provisions pursuant to the Pharmaceutical Information Program (“**PIP**”) Joint Service & Access Policy.

4. It was alleged that Mr. Obidiya and the Pharmacy are guilty of professional misconduct and/or professional incompetence and proprietary misconduct. A copy of the Notice of Discipline Hearing setting out the particulars of the allegations against Mr. Obidiya and the Pharmacy was served upon Mr. Obidiya on June 3, 2022. The affidavit of personal service attaching that notice of discipline hearing at Exhibit “A” was filed before the Discipline Committee as Exhibit P-2. Appendix “A” of that notice of discipline hearing sets out the particulars of the allegations against Mr. Obidiya and the Pharmacy:

1. In or about April 2021, you failed to oversee and actively monitor a pharmacy assistant of ST Enterprises Ltd. o/a 33rd Street Pharmacy, allowing the pharmacy assistant to access information contained on the Pharmaceutical Information Program and eHealth Saskatchewan through eHR viewer without an appropriate authorized health purpose.
2. In or about April 2021, you failed to oversee and actively monitor a pharmacy assistant of ST Enterprises Ltd. o/a 33rd Street Pharmacy, allowing the

pharmacy assistant to inappropriately advertise 33rd Street Pharmacies [sic] services by going door to door soliciting clients for 33rd Street Pharmacy.

5. Such conduct was alleged to constitute a breach by Mr. Obidiya and the Pharmacy of sections 24(a)-(b), 25(a)-(b), 26(a)-(b) and 65 of *The Pharmacy and Pharmacy Disciplines Act* and sections 5(1)-(2), 6(1)-(2) and 16(a)-(c) of *The Health Information Protection Act*. In addition to the legislative breaches, it was alleged that Mr. Obidiya and the Pharmacy breached the College's Regulatory Bylaws (including the Code of Ethics), several of the Model Standards of Practice for Canadian Pharmacists, as well as provisions pursuant to the PIP Joint Service & Access Policy, and the Saskatchewan Proprietor Agreement.

6. At the outset of the hearing on June 28, 2022 (the "**June Hearing**"), it was confirmed that the Discipline Hearing was properly constituted. It was also confirmed that the parties had no objection to proceeding virtually by Webex. The Members, through their legal counsel, waived a reading of the charges and entered pleas of guilty for themselves and the Pharmacy. Counsel further indicated that an Agreed Statement of Facts (the "**June Agreed Statement of Facts**") was to be filed, as well as a Joint Submission as to Penalty, as amended during the June Hearing, and including the issue of costs (the "**June Penalty**").

7. As described further below, following the June Hearing, at the request of the Discipline Committee a case management conference with counsel was convened on August 26th, 2022 (the "Case Management Conference"). The purpose of that meeting was to put counsel on notice, that before being able to render a decision, including whether to accept the June Penalty submission that additional evidence and further submissions were needed. On October 27, 2022, the hearing reconvened (the "**October Hearing**") and counsel filed a Supplemental Agreed Statement of Facts (the "**October Agreed Statement of Facts**") and a revised Joint Submission as to Penalty (the "**October Penalty**").

II. THE JUNE HEARING

Evidence

8. At the outset of the June Hearing, the following June Agreed Statement of Facts was filed as Exhibit P-3 with the Discipline Committee, with the referenced tabs being omitted from these reasons:

1. Milind Patel, of the City of Saskatoon, in the Province of Saskatchewan, is a licensed pharmacist and a member of the Saskatchewan College of Pharmacy Professionals (the "College") in good standing. Milind Patel first registered with the College on August 18, 2017 and he has been a practicing member since that date.
2. Olatunji Obidiya, of the City of Saskatoon, in the Province of Saskatchewan, is a licensed pharmacist and a member of the Saskatchewan College of Pharmacy Professionals (the "College") [*sic*] in good standing. Olatunji Obidiya first registered with the College on August 20, 2015 and he has been a practicing member since that date.
3. The College has granted ST Enterprises Ltd. a proprietary pharmacy permit pursuant to section 20 of *The Pharmacy and Pharmacy Disciplines Act* (the "Act").
4. ST Enterprises Ltd. operates a pharmacy under the name 33rd Street Pharmacy (the "Pharmacy") which is located at 401 33rd Street West, Saskatoon, Saskatchewan. The Pharmacy opened on October 1, 2020. Attached at **Tab "A"** is a copy of the Information Services Corporation Corporate Registry for ST Enterprises Ltd. effective April 28, 2021.
5. Olatunji Obidiya was the pharmacy manager of the Pharmacy from October 1, 2020 until June 1, 2021. At all relevant times and currently, Olatunji Obidiya has also been manager of another pharmacy which is not the subject matter of these proceedings.
6. Milind Patel became pharmacy manager of the Pharmacy on June 1, 2021 and remains the pharmacy manager to this day.
7. At all material times, Milind Patel was the Privacy Officer for the Pharmacy.
8. On April 26, 2021, Tami Schwebius, College Complaints Manager, received a call from a member of the public ("P.D."). If Ms. Schwebius were to testify to the contents of this call, she would state:
 - (a) P.D. informed Ms. Schwebius that a pharmacist at the Pharmacy was being unprofessional. It was later determined this was not a pharmacist, but a staff member of the Pharmacy.
 - (b) P.D. stated this individual had been to her house advertising for the Pharmacy and asking her to switch pharmacies, including her Methadone prescription.
 - (c) P.D. expressed to Ms. Schwebius that this was very upsetting to her and was crying throughout the conversation.

9. On April 26, and 27, 2021, Ms. Schwebius communicated with Olatunji Obidiya regarding the concerns P.D. had raised. It was determined the individual conducting the advertising with pamphlets was Sachinkumar Patel ("Sachin Patel"). Sachin Patel was at all material times the President and a shareholder of ST Enterprises Ltd. who worked as a pharmacy assistant at the Pharmacy. Sachin Patel is not a pharmacist registered with the College. Attached at **Tab "B"** is a copy of the pamphlet being provided by Sachin Patel. Olatunji Obidiya indicated to Ms. Schwebius that he would tell Sachin Patel to stop going door to door with pamphlets and speaking with members of the public about their prescriptions. Attached at **Tab "C"** is a copy of Ms. Schwebius' notes of the conversation.
10. On April 27, 2021, Ms. Schwebius spoke with P.D. once again. If Ms. Schwebius were to testify to the contents of this call, she would state:
 - (a) P.D. confirmed she did receive a pamphlet and was happy no one from the Pharmacy would be coming back.
 - (b) Ms. Schwebius asked P.D. if she had any idea how the individual from the Pharmacy (Sachin Patel) knew she was on methadone. P.D. was not certain. She expressed that this situation caused her a great deal of stress.
11. As a result of this situation with P.D., and a subsequent complaint from Jeana Wendel regarding the situation on May 18, 2021, a copy of which is attached at **Tab "D"**, the Complaints Committee began an investigation and directed Chantal Lambert, Assistant Registrar – Complaints Director of the College, to take the necessary steps.
12. The investigation by the Complaints Committee has resulted in the charges set out in Appendix "A" of the Notice of Discipline Hearing dated June 2, 2022 relating to Milind Patel (the "Patel Charge Document") and the charges set out in Appendix "A" of the Notice of Discipline Hearing dated June 2, 2022 relating to Olatunji Obidiya and ST Enterprises Ltd. o/a 33rd Street Pharmacy (the "Obidiya Charge Document").
13. On April 27, 2021, Ms. Lambert completed a Request for Prescription Review Program Information from [sic] regarding P.D. Attached at **Tab "E"** is a copy of this form. Ms. Lambert also requested information from Arlene Kuntz, Director of Professional Practice, Drug Plan and Extended Benefits Branch, Ministry of Health, on April 28, 2022. Attached at **Tab "F"** is a copy of this request. As a result of this request, in May 2021, Wayne Stewart, Senior Pharmaceutical Policy and Program Consultant, Drug and Extended Benefits Branch, Ministry of Health, provided a response showing Sachin Patel's access to P.D.'s Pharmaceutical Information Program ("PIP") profile. Attached at **Tab "G"** is a copy of the email correspondence between Mr. Stewart and Ms. Lambert, including the attachment. Attached at **Tab "H"** is a copy of charts provided by the drug plan which show additional information regarding what was queried in relation to P.D.

14. During the course of Ms. Lambert's investigation, concerns regarding access of PIP and eHealth Saskatchewan through eHealth viewer without appropriate authorized health purposes by Milind Patel and Sachin Patel began to arise. By letter dated June 1, 2021, Ms. Lambert wrote to Ms. Kuntz to request records of any access to any patient PIP profiles and eHealth profiles by pharmacy staff at the Pharmacy between April 1, 2021 and April 30, 2021. Attached at **Tab "I"** is a copy of this letter. A similar letter dated June 15, 2021 was sent to Christine Baynton, Chief Privacy Officer, at eHealth Saskatchewan. Attached at **Tab "J"** is a copy of that letter.
15. As a result of these requests, Ms. Lambert was provided documentation from the Ministry of Health and eHealth Saskatchewan. One set of documents was an eHealth Privacy PIP Audit Report which showed access into PIP by Milind Patel and Sachin Patel. Ms. Lambert cross referenced this list with a list of client profiles in the computer system of the Pharmacy. Any individual who was a client of the Pharmacy had a client profile. Attached at **Tab "K"** is a copy of this document where Ms. Lambert has marked which individuals did not have a client profile at the Pharmacy but still had their profiles accessed by either Milind Patel or Sachin Patel. The total is approximately 100 individuals. Olatunji Obidiya and Milind Patel acknowledge and agree that these individuals did not sign consent forms to have their profiles accessed, they were not clients of the Pharmacy, and that not all access was not [*sic*] for an authorized health purpose.
16. Ms. Lambert also received eHR Viewer Audit Report from April 2021 from eHealth Saskatchewan which shows access to [*sic*] Sachin Patel. Attached at **Tab "L"** is a copy of this spreadsheet.
17. A further letter dated June 25, 2021, from Ms. Lambert to Ms. Kuntz was sent requesting a copy of the current Proprietor Agreement between the Minister of Health and the Pharmacy. Attached at **Tab "M"** is a copy of that letter. Attached at **Tab "N"** is a copy of the Proprietor Agreement provided in response to this letter. Attached at **Tab "O"** is a copy of an Amending Agreement to the Proprietor Agreement.
18. An additional letter dated July 7, 2021, from Ms. Lambert to Ms. Kuntz was sent requesting additional information. Attached at **Tab "P"** is a copy of that letter. Attached at **Tab "Q"** is the response spreadsheet from Ms. Kuntz and Mr. Stewart which provides the answers to Ms. Lambert's questions.
19. Attached at **Tab "R"** is a copy of the Joint Service and Access Policy for PIP at all material times.
20. Attached at **Tab "S"** is a copy of the Reference Manual of the College relating to Privacy and Policies Procedures.
21. By letter dated July 5, 2021, Ms. Lambert wrote to Milind Patel regarding the complaint. Milind Patel and Sachin Patel met with Ms. Lambert and Ms. Schwebius that same date. Milind Patel and Sachin Patel answered the questions asked of them. Further letters were sent regarding this situation and complaint and both Olatunji Obidiya and Milind Patel responded in appropriate timeframes.

22. Milind Patel admits the allegations in charges 1 and 2 of the Patel Charge Document and admits the conduct described in those charges constitutes professional misconduct and professional incompetence and amounts to a breach of the Act, the College Regulatory Bylaws and the Model Standards for Practice for Canadian Pharmacists as those provisions are set out in Appendix "A".
23. Olatunji Obidiya and ST Enterprises Ltd. o/a 33rd Street Pharmacy admit the allegations in charges 1 and 2 of the Obidiya Charge Document and admits that the conduct described in those charges constitutes proprietary misconduct, professional misconduct and professional incompetence and amounts to a breach of the Act, the College Regulatory Bylaws and the Model Standards for Practice for Canadian Pharmacists as those provisions are set out in Appendix "A".
24. If called to testify, Olatunji Obidiya and Milind Patel would state:
 - (a) When the Pharmacy opened, there was limited opportunity to market due to COVID-19 restrictions;
 - (b) Some of the approximately 100 individuals referred to in paragraph 15 provided verbal consent, but not written consent, for their profiles to be accessed;
 - (c) Sachin Patel did go door to door handling [*sic*] out copies of the pamphlets. While doing this he engaged in discussions with members of the public about the Pharmacy and its services. He did not intend to cause stress to any members of the public, including P.D.;
 - (d) Olatunji Obidiya had lapses of supervision regarding Sachin Patel; and,
 - (e) The Pharmacy has now put in place new measures to ensure Pharmacy Assistants, including Sachin Patel, are appropriately supervised.
25. Neither Olatunji Obidiya nor Milind Patel have a discipline record before the College.

The June Penalty

9. The June Penalty was filed as Exhibit P-5 with the Discipline Committee and amended during the June Hearing. Counsel confirmed that Exhibit P-5, as amended, represented their joint submission as to penalty, which sought the following:

1. Pursuant to section 35(1)(t) of *The Pharmacy and Pharmacy Disciplines Act* (the "Act"), ST Enterprises Ltd. o/a 33rd Street Pharmacy ("33rd Street Pharmacy") shall be reprimanded.
2. Pursuant to section 34(1)(e) of the Act, Olatunji Obidiya shall be reprimanded.
3. Pursuant to section 34(1)(e) of the Act, Milind Patel shall be reprimanded.

4. Pursuant to sections [sic] 35(2)(a)(i) and [sic] of the Act, 33rd Street Pharmacy shall pay a fine in the amount of \$7,000.00. The fine shall be paid on [sic] before January 8, 2024. Failing payment, the proprietary permit for 33rd Street Pharmacy shall be suspended pursuant to sections [sic] 35(2)(b) of the Act until payment is made.
5. Pursuant to sections [sic] 34(2)(a)(i) of the Act, Olatunji Obidiya shall pay a fine in the amount of \$2,500.00. The fine shall be paid on [sic] before January 8, 2024. Failing payment, Olatunji Obidiya's license shall be suspended pursuant to sections [sic] 34(2)(b) of the Act until payment is made.
6. Pursuant to sections [sic] 34(2)(a)(i) of the Act, Milind Patel shall pay a fine in the amount of \$2,500.00. The fine shall be paid on [sic] before January 8, 2024. Failing payment, Milind Patel's license shall be suspended pursuant to sections 34(2)(b) of the Act until payment is made.
7. Pursuant to section 34(1)(d)(ii) of the Act, Olatunji Obidiya and Milind Patel may continue to practise under the following conditions:
 - (a) Within 90 days of the date of Discipline Committee Order, Olatunji Obidiya and Milind Patel shall complete the Pharmaceutical Information Program Training Course - Training and Approvers and Trustees through and provide proof of completion to the Registrar. Olatunji Obidiya and Milind Patel shall bear all costs of these courses.
 - (b) Within 90 days of the date of the Discipline Committee Order, Olatunji Obidiya and Milind Patel shall complete Privacy Officer Certification/Recertification through the University of Saskatchewan and provide proof of completion to the Registrar. Olatunji Obidiya and Milind Patel shall bear all costs of these courses.
8. Until the courses set out above are successfully completed, neither Olatunji Obidiya and Milind Patel shall serve as a pharmacy manager at 33rd Street Pharmacy or any other proprietary pharmacy. In order to comply with Part I, section 11 of the *Regulatory Bylaws*, the conditions set out in paragraph 7 shall become effective 30 days from the date of this decision. This will allow Olatunji Obidiya and Milind Patel to arrange for a new designated pharmacy manager.
9. In the event that the courses set out above cannot be completed within the timeframe because of circumstances outside the control of Olatunji Obidiya and Milind Patel, the Discipline Committee retains jurisdiction to alter the deadline date upon hearing submissions by the Complaints Committee, Olatunji Obidiya and Milind Patel. Any request to alter or extend the deadline date must be brought before the deadline date expires.
10. In the event a course is not completed by Olatunji Obidiya or Milind Patel by the deadline set out in this Order or as may be extended by the Discipline Committee, the license of the individual(s) not in compliance shall be suspended until such time as the course is successfully completed and confirmation of completion is submitted to the Registrar.

11. Pursuant to sections 34(2)(a)(ii) and 35(2)(a)(ii) of the Act, 33rd Street Pharmacy, Olatunji Obidiya, and Milind Patel shall be jointly and severally liable to pay the costs of the investigation and hearing which costs shall be fixed in the amount of \$12,000.00. The costs shall be paid on or before January 8, 2024. Failing payment, Olatunji Obidiya and Milind Patel's licenses and proprietary permit held by 33rd Street Pharmacy shall be suspended pursuant to section [*sic*] 34(2)(b) and 35(2)(b) of the Act until payment is made.
 12. Pursuant to section 34(1)(f) of the Act, the Registrar shall send a copy of the Discipline Committee decision to the Office of the Saskatchewan Information and Privacy Commissioner.
 13. A digest of the Discipline Committee decision shall be published in the College newsletter and on the College website. Further and consistent with College policy, the decision of the Discipline Committee shall be provided to CanLII for their publication as they may see fit. All personal health numbers identifiable as HSN codes shall be redacted in any publication of the written reasons.
10. In support of the costs claimed in the June Penalty, Mr. Clyde filed Exhibit P-4 with the Discipline Committee, which identifies the actual and anticipated costs of the investigation and the hearing as \$15,730.

Submissions as to the June Penalty

11. Counsel made submissions as to the sentencing principles and factors relevant to justifying the June Penalty, including the need for specific and general deterrence, improved competence of members, and maintaining public confidence in the integrity of the profession.
12. Mr. Clyde submitted that the misuse of the PIP and eHealth systems was a serious breach of privacy of certain members of the public that jeopardized the public's trust and confidence in the profession. As a result, the consequences for the Members' misconduct must be clear to the public and the profession generally. In addition, the penalty ordered must instill upon the Members the significance of their wrongdoing and their failure to adequately monitor the Pharmacy's staff.
13. Despite the seriousness of the misconduct, counsel submitted that there are mitigating factors, including the Members' lack of a disciplinary history, their cooperation in the investigation, their guilty pleas, the remedial steps taken, and the financial circumstances of the Members and the Pharmacy. Regarding financial circumstances, Mr. Wood submitted that the

Pharmacy has had financial difficulties since its opening and, as a result, determining a sanction that would not risk putting the pharmacy out of business was key to the June Penalty.

14. Mr. Wood submitted that a subset of the accesses to PIP and eHealth profiles of non-clients, as described in the June Agreed Statement of Facts, were accessed with verbal consent. However, the Pharmacy did not keep any records of the verbal consent provided.

15. In support of the June Penalty, Mr. Clyde brought the Discipline Committee's attention to three previous decisions of Canadian pharmacist discipline hearings concerning breaches of privacy:

(a) John Evans and the College of Pharmacists of British Columbia, 2000: a fine and costs in the amount of \$10,000 were ordered, but no breakdown as to fine and costs was provided.

(b) Joseph Salek and the Ontario College of Pharmacists, 2005 ("*Salek*"): a reprimand, remedial training, a three-month suspension with two months of the suspension to be remitted on condition that the remedial training was completed, and costs in the amount of \$8,000 were ordered.

(c) Dan Krikau and the Saskatchewan College of Pharmacists, 2010 ("*Krikau*"): a reprimand, a \$5,000 fine, and costs in the amount of \$9,000 were ordered.

16. Mr. Clyde submitted that a fine is more appropriate than a suspension in the case before the Discipline Committee, citing that the misconduct was not as severe as that in *Salek* where a suspension was ordered in response to a pharmacist using patient information from the pharmacy that previously occupied the same premises without consent or substantiating its accuracy. Further, unlike the pharmacist in *Salek*, the Members have no previous discipline history. Mr. Clyde also submitted that a monetary penalty is appropriate because the wrongdoing was motivated by the intention to advertise and generate revenue.

17. Regarding the amount of the fines, Mr. Clyde submitted that the \$2,500 fines to each of the Members and the \$7,000 fine to the Pharmacy are proportionate to the misconduct. It was

submitted that it is appropriate that the sum of the Members' fines is equivalent to the fine ordered in *Krikau*.

18. Mr. Clyde submitted that the fees that the Members would be responsible for paying to attend the proposed educational courses should also be considered.

19. With respect to costs, Mr. Clyde advised that the Complaints Committee was seeking costs in the amount of \$12,000, which amounted to 76% of the actual and anticipated costs of the College. Mr. Clyde submitted that the length of these proceedings, the amount of documentation involved, the extent of discussion and negotiation between the Parties, and the concern from the public demands that costs represent a higher proportion of the actual and anticipated costs of the College than is typical for hearings that proceed by agreed statement of facts and joint submissions.

20. Both counsel expressed the importance of the 30-day grace period during which the Members were permitted to continue to act as pharmacy manager despite not having completed the education courses set out in the June Penalty. As the Members are the only pharmacists employed by the Pharmacy, counsel noted that, in the absence of the grace period, the Pharmacy would have to be closed until the Members finished training or they found a new pharmacy manager to hire.

21. Mr. Wood noted that the decision of the Saskatchewan Court of Appeal in *Rault v. Law Society of Saskatchewan*, 2009 SKCA 81 ("**Rault**"), established the general principle that a joint submission should not be disregarded unless there are good and cogent reasons for doing so.

22. At the close of counsel's submissions, the Discipline Committee noted for counsel that the past disciplinary decisions submitted were over a decade old and that the June Penalty did not appear to consider inflation or the fact that *The Pharmacy Amendment Act, 2015*, S.S. 2015, c. 17 had since increased the maximum fine for professional misconduct and professional incompetence from \$5,000 to \$100,000 and the fine for proprietor misconduct from \$15,000 to \$100,000.

23. In response, Mr. Clyde submitted that the influence of inflation was mitigated by other factors, including the Members' cooperation in the investigation, their guilty pleas, the remedial steps taken, and the financial circumstances of the Pharmacy.

24. The Discipline Committee also questioned what, if any remedial steps were taken to notify the individuals whose privacy was breached and to remedy those breaches. Mr. Wood stated that no contact had been made that he was aware of. Mr. Obidiya confirmed that no formal notifications had been made, but, on occasion, he had notified individuals of a breach of their privacy if they attended the Pharmacy.

III. CASE MANAGEMENT CONFERENCE

25. To ensure fairness to the Members and that the June Penalty met the relevant sentencing goals, the Discipline Committee convened the Case Management Conference to request additional evidence and further submissions concerning the appropriate penalty.

26. The Discipline Committee is mindful of the decision of the Saskatchewan Court of Appeal in *Rault* regarding the standard for disregarding joint submissions, as raised by Mr. Wood during his submissions at the June Hearing, and notes that the concept was recently reaffirmed by the Court of Appeal in the criminal context in *R v Bear*, 2018 SKCA 22, where Chief Justice Richards, relying on Justice Moldaver in *R v Anthony-Cook*, 2016 SCC 43 ("**Anthony-Cook**"), said at paragraph 23:

Rejection (of a joint submission) denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all of the relevant circumstances, including the important of promoting certainty in resolution of discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold [...]

27. The above test was applied in the regulatory context in *Law Society of Saskatchewan v. Blenner-Hassett*, 2018 SKLSS 6, concluding as follows at paragraph 37:

We cannot say the submission is so unhinged from the circumstance of the offence and the offender that a reasonable person would conclude the proper

functioning of the system had broken down. As such the Committee will give effect to the joint submission.

See also: *Saskatchewan College of Pharmacy Professionals v. Jolyn Schultz and Sunnyside Ventures Ltd.*, 2019 SKCPPDC 9; *Saskatchewan College of Pharmacy Professionals v. Ryan Toth and Toth Pharmacy Ltd*, 2020 SKCPPDC 3.

28. The Discipline Committee also took guidance from Justice Moldaver’s statements in *Anthony-Cook* regarding the approach decision-makers should follow when they are troubled by a joint submission. Justice Moldaver affirmed that joint submissions should be given proper consideration and that accused members should be treated fairly, and, when considering overturning a joint submission, proper procedure should be adopted as described at para. 58:

[I]f the trial judge is not satisfied with the sentence proposed by counsel, “fundamental fairness dictates that an opportunity be afforded to counsel to make further submissions in an attempt to address the . . . judge’s concerns before the sentence is imposed” (*R. v. G.W.C.*, 2000 ABCA 333] at para. 26). The judge should notify counsel that he or she has concerns, and invite further submissions on those concerns, including the possibility of allowing the accused to withdraw his or her guilty plea, as the trial judge did in this case.

29. In addition to requesting further submissions regarding supplemental facts and the appropriate penalty in the circumstances, the Discipline Committee requested that counsel address the following issues with regard to the June Penalty:

- (a) Proportionality between the penalty and the seriousness of the misconduct.
- (b) Adequacy of the penalty as a general and specific deterrent to similar privacy-related misconduct.
- (c) Reliance on penalties from past disciplinary decisions and how inflation was taken into account.
- (d) Failure to consider that the maximum fine for professional misconduct, professional incompetence and proprietary misconduct increased substantially since the publication of the past decisions relied upon during the June Hearing.
- (e) Extent of the influence of financial circumstances of the Pharmacy on determination of appropriate penalty, and how reliance on that consideration

nevertheless upholds the sentencing goals of general and specific deterrence, proportionality, and maintain the public's trust and confidence in the profession.

(f) Failure to address individuals of the public who were subject to privacy breaches.

(g) Safeguards to ensure privacy breaches do not occur again.

(h) Whether the Privacy Commissioner had been notified of the misconduct.

30. At the Case Management Conference, the Discipline Committee noted that the Members may retract their guilty plea in light of the Discipline Committee's request for further submissions.

IV. THE OCTOBER HEARING

Supplemental Evidence

31. At the outset of the October Hearing, the following supplemental October Agreed Statement of Facts was filed as Exhibit P-6 with the Discipline Committee, with the referenced tabs being omitted from these reasons:

1. This Supplemental Agreed Statement of Facts is intended to provide additional information for this matter and is to be read together with the Agreed Statement of Facts dated June 27, 2022 (the "June Agreed Statement of Facts"). All defined terms within the June Agreed Statement of Facts remain the same for this Supplemental Agreed Statement of Facts.
2. Once the College contacted the Pharmacy, Milind Patel, and Olatunji Obidiya regarding the circumstances that resulted in the charges outlined in the Patel Charge Document and the Obidiya Charge Document, all privacy breaches, professional misconduct, and professional incompetence, ceased. Milind Patel and Olatunji Obidiya spoke with Sachin Patel to ensure he no longer accessed PIP and that no further privacy breaches occurred.
3. The Ministry of Health's Health Information and Privacy Unit was informed of the privacy breach in July 2021.
4. Sachin Patel's eHealth and PIP access was suspended in July 2021 and remains suspended to this day. Attached at **Tab "A"** is a copy of email correspondence between Chantal Lambert, Wayne Stewart, Ministry of Health, and Arlene Kuntz, Ministry of Health, confirming this.
5. Sachin Patel remains a shareholder of ST Enterprises Ltd. and employed as a pharmacy assistant with the Pharmacy. He does not have [sic] currently have

access to PIP. He is supervised by Milind Patel and/or Olatunji Obidiya at all times when working as a pharmacy assistant.

6. Starting in late 2021, the Pharmacy developed a new privacy policy and began requiring employees to review and sign an Employee Privacy and Confidentiality Pledge. Attached at **Tab "B"** is a copy of the new privacy policy. Attached at **Tab "C"** is a copy of the Employee Privacy and Confidentiality Pledge that Sachin Patel signed.
7. At the beginning of 2022, the Pharmacy began keeping a log of each time PIP was accessed by individuals who did not already have [*sic*] pre-existing client profile with the Pharmacy and the reason for that access.
8. The Pharmacy now requires that any time an individual requires services which require access to their electronic health record, that individual is to complete an Authorization to access electronic records. Attached at **Tab "D"** is a copy of a template Authorization. Where written consent is not practical, including when dealing with telephone requests, verbal consent is obtained.
9. The Pharmacy now requires that any time an individual desires their prescription be transferred to the Pharmacy, they complete an Authorization to transfer prescriptions. Attached at **Tab "E"** is a copy of a template Authorization.
10. Milind Patel and Olatunji Obidiya have contacted the Privacy Commissioner regarding this situation and the associated privacy breaches.
11. Further to paragraph 24 of the June Agreed Statement of Facts, if called to testify. Olatunji Obidiya and Milind Patel would state:
 - (a) Milind Patel and Olatunji Obidiya are currently waiting on direction from the Privacy Commissioner regarding this situation and the associated privacy breaches. They will follow all recommendations of the Privacy Commissioner regarding this situation, including with respect to how and when to contact individuals whose privacy has been breached, Individuals whose privacy has been breached have not been contacted at this point.
 - (b) The Pharmacy is in a poor financial position. Attached at **Tab "F"** is a copy of the Kroll reports from October 2020 until September 2022. The Pharmacy makes less than \$1,000 a month in other sales. The Pharmacy's average monthly expenses exceed \$15,000 per month. On an average month, the Pharmacy is losing money.
 - (c) They have written an apology letter to P.D. and intend to deliver it to her.

32. Mr. Clyde submitted that the October Agreed Statement of Facts demonstrate the initiatives adopted by the Members to address certain issues raised by the Discipline Committee during the Case Management Conference, including:

(a) The Members implemented new privacy safeguards to ensure that a similar privacy breach does not occur in the future, including the development of a new privacy policy; a requirement that employees provide a privacy pledge in a standard form; implementation of an access log for PIP access for individuals who do not have a client profile with the Pharmacy and the reason that access; and client authorization forms for access to electronic health records and transfers of prescriptions.

(b) The Members have put safeguards in place concerning Sachinkumar Patel (“**Mr. S. Patel**”), the Pharmacy’s pharmacy assistant whose breaches of privacy were described in the June Agreed Statement of Facts, including restricting access to PIP and eHealth and only permitting him to work at the Pharmacy while supervised by one of the Members.

(c) The Privacy Commissioner has been notified of the Members’ misconduct and the Members have committed to adopting all recommendations of the Privacy Commissioner, including with respect to resolving the Members’ breaches of privacy.

Finding of Professional Misconduct, Professional Incompetence and Proprietary Misconduct

33. Upon reviewing and considering the evidence submitted during the June Hearing and the October Hearing, the Discipline Committee accepts the Members’ pleas and finds them guilty of professional misconduct and professional incompetence as defined in *The Pharmacy and Pharmacy Disciplines Act*. The Discipline Committee also finds the Pharmacy guilty of proprietary misconduct as defined in *The Pharmacy and Pharmacy Disciplines Act*. The Discipline Committee finds that the conduct of the Members fell below the standard expected for the profession.

The October Penalty

34. Having accepted that the Members and the Pharmacy are guilty of professional misconduct and professional incompetence, and proprietary misconduct, respectively, consideration then turned to an assessment of the appropriate penalty in the circumstances. The October Penalty was filed as Exhibit P-7 with the Discipline Committee, which sought the following:

1. Pursuant to section 35(1)(f) of *The Pharmacy and Pharmacy Disciplines Act* (the "Act"), ST Enterprises Ltd. o/a 33rd Street Pharmacy ("33rd Street Pharmacy") shall be reprimanded.
2. Pursuant to section 34(1)(e) of the Act, Olatunji Obidiya shall be reprimanded.
3. Pursuant to section 34(1)(e) of the Act, Milind Patel shall be reprimanded.
4. Pursuant to sections [sic] 35(2)(a)(i) and [sic] of the Act, 33rd Street Pharmacy shall pay a fine in the amount of \$8,000.00. The fine shall be paid on [sic] before January 8, 2024. Failing payment, the proprietary permit for 33rd Street Pharmacy shall be suspended pursuant to sections 35(2)(b) of the Act until payment is made.
5. Pursuant to sections [sic] 34(2)(a)(i) of the Act, Olatunji Obidiya shall pay a fine in the amount of \$5,000.00. The fine shall be paid on or before January 8, 2024. Failing payment, Olatunji Obidiya's license shall be suspended pursuant to sections [sic] 34(2)(b) of the Act until payment is made.
6. Pursuant to sections [sic] 34(2)(a)(i) of the Act, Milind Patel shall pay a fine in the amount of \$5,000.00. The fine shall be paid on before [sic] January 8, 2024. Failing payment, Milind Patel's license shall be suspended pursuant to sections [sic] 34(2)(b) of the Act until payment is made.
7. Pursuant to section 35(1)(g) of the Act, ST Enterprises Ltd. shall not allow Sachinkumar Patel access to PIP or eHealth until:
 - (a) Two years from the date of this decision;
 - (b) Sachinkumar Patel has completed the "CPEP PROBE: Ethics and Boundaries" course demonstrated by an unconditional pass and provide proof of completion to the Registrar. ST Enterprises Ltd. shall bear all costs of this course; and,
 - (c) Sachinkumar Patel has completed the Pharmaceutical Information Program Training Course – Training for Approvers and Trustees and ST Enterprises Ltd. provides proof of completion to the Registrar. ST Enterprises Ltd. shall bear all costs of this course.
8. Pursuant to section 34(1)(d)(ii) of the Act, Olatunji Obidiya and Milind Patel may continue to practise under the following conditions:
 - (a) Within 90 days of the date of [sic] Discipline Committee Order, Olatunji Obidiya and Milind Patel shall complete the Pharmaceutical Information Program Training Course - Training and Approvers and Trustees and provide proof of completion to the Registrar. Olatunji Obidiya and Milind Patel shall bear all costs of these courses.
 - (b) Within 90 days of the date of the Discipline Committee Order, Olatunji Obidiya and Milind Patel shall complete Privacy Officer Certification/Recertification and provide proof of completion to the

Registrar. Olatunji Obidiya and Milind Patel shall bear all costs of these courses.

- (c) Within 120 days of the date of the Discipline Committee Order, Olatunji Obidiya and Milind Patel shall successfully complete the “CPEP PROBE: Ethics and Boundaries” course demonstrated by an unconditional pass and provide proof of completion to the Registrar. Olatunji Obidiya and Milind Patel shall bear all costs of these courses.
9. Until the courses set out in paragraph 8 are successfully completed by the respective individuals, neither Olatunji Obidiya and Milind Patel respectively shall serve as a pharmacy manager at 33rd Street Pharmacy or any other proprietary pharmacy. In order to comply with Part I, section 11 of the *Regulatory Bylaws*, the conditions set out in paragraph 8 shall become effective 90 days from the date of this decision. This will allow Olatunji Obidiya and Milind Patel to arrange for a new designated pharmacy manager.
10. In the event that the courses set out above cannot be completed within the timeframe because of circumstances outside the control of Olatunji Obidiya and Milind Patel, the Discipline Committee retains jurisdiction to alter the deadline date upon hearing submissions by the Complaints Committee, Olatunji Obidiya and Milind Patel. Any request to alter or extend the deadline date must be brought before the deadline date expires.
11. In the event a course is not completed by the deadline date set out in this Order or as may be extended by the Discipline Committee, the license of the individual(s) not in compliance shall be suspended until such time as the course is successfully completed and confirmation of completion is submitted to the Registrar.
12. Pursuant to sections 34(2)(a)(ii) and 35(2)(a)(ii) of the Act, 33rd Street Pharmacy, Olatunji Obidiya, and Milind Patel shall be jointly and severally liable to pay the costs of the investigation and hearing which costs shall be fixed in the amount of \$12,000.00. The costs shall be paid on or before January 28, 2024. Failing payment, Olatunji Obidiya and Milind Patel's licenses and [*sic*] proprietary permit held by 33rd Street Pharmacy shall be suspended pursuant to section 34(2)(b) and 35(2)(b) of the Act until payment is made.
13. Pursuant to section 34(1)(f) of the Act, the Registrar shall send a copy of the Discipline Committee decision to the Office of the Saskatchewan Information and Privacy Commissioner.
14. A digest of the Discipline Committee decision shall be published in the College newsletter and on the College website. Further and consistent with College policy, the decision of the Discipline Committee shall be provided to CanLII for their publication as they may see fit. All personal health numbers identifiable as HSN codes shall be redacted in any publication of the written reasons.

Submissions as to the October Penalty

35. Mr. Wood explained that the intent of the October Penalty was to address the Disciplinary Committee’s remarks during the Case Management Conference and to propose a penalty that was proportionate to the seriousness of the misconduct at issue while taking into account the financial position of the Pharmacy.

36. Mr. Clyde submitted that there are five key differences between the June Penalty and the October Penalty:

- (a) Increase in the fine for the Pharmacy from \$7,000 to \$8,000.
- (b) Increase in the fine for Mr. M. Patel from \$2,500 to \$5,000.
- (c) Increase in the fine for Mr. Obidiya from \$2,500 to \$5,000.
- (d) Additional requirement that the Members complete the CPEP PROBE: Ethics and Boundaries course (the “**PROBE Course**”).
- (e) Additional requirement that the Pharmacy prohibits Mr. S. Patel from accessing PIP or eHealth until he has completed two specified educational courses, including the PROBE Course, and at least two years have passed from the date of this decision.

37. In setting the fines in the October Penalty, Mr. Clyde submitted that counsel relied upon four disciplinary decisions of the College of Pharmacists of British Columbia in addition to those decisions referred to during the June Hearing: (i) Danielle Chong, 1999 (“*Chong*”); (ii) Sandford Leung, 1999 (“*Leung*”); (iii) Stephen Mar, 2000 (“*Mar*”); and (iv) Daniel Mooring, 2001 (“*Mooring*”).

38. In each of *Chong*, *Leung* and *Mar*, the discipline committee of the College of Pharmacists of British Columbia considered pharmacists who had made inappropriate accesses to PharmaNet patient records. In all three cases it was found that the accesses were unrelated to health care and took place over more than a year, demonstrating a pattern rather than an isolated incident. The decisions noted that the misconduct was serious and assessed a penalty of \$6,500. The decisions did not provide a breakdown as to fines and costs.

39. In *Mooring*, a pharmacist pled guilty to negligence with respect to his conduct and lack of supervision and control of his employees in relation to a number of unauthorized accesses to PharmaNet patient records over a two-year period. Mooring was ordered to pay a fine of \$1,500 and costs of \$5,000.

40. In support of the fine and costs asserted in the October Penalty, Mr. Clyde presented the Discipline Committee with a document that identified the penalties ordered in the past decisions referred to and the fines and costs adjusted for inflation, based on inflation rates defined by the Government of Canada.

41. Mr. Clyde submitted that, once inflation is taken into account, the past decisions provide a range of appropriate fines and costs for privacy breaches. Mr. Clyde submitted that an appropriate penalty in this case should be on the higher end of that range, as reflected in the fines and costs in the October Penalty.

42. Mr. Clyde recognized that the fines provided by the October Penalty are relatively low compared to the maximum fine permitted under sections 34(2)(a)(i) and 35(2)(a)(i) of *The Pharmacy and Pharmacy Disciplines Act* but submitted that the jurisprudence demonstrates that higher penalties are reserved for those cases in which the member does not show remorse for their misconduct, which is not the case here.

43. In addition, Mr. Clyde submitted that the Pharmacy's poor financial position, as demonstrated in the October Agreed Statement of Facts, should be taken into account. It was submitted that a penalty that would risk bankrupting the Pharmacy is unreasonable. Mr. Clyde also suggested that the costs of the required education courses should be considered even if they are not reflected in the fines or costs assessed against the Member's and the Pharmacy. Mr. Wood submitted that the PROBE Course has an enrolment fee of approximately \$2,000 per person.

44. Mr. Clyde submitted that the education requirements of the October Penalty and the requirement that the Pharmacy place restrictions on Mr. S. Patel further demonstrate the seriousness of the misconduct.

45. Mr. Wood submitted that the timeline for completing the courses required under the October Penalty was increased compared to the June Penalty to reflect the additional time and expense associated with the PROBE Course.

Consideration of the October Penalty

46. The Discipline Committee accepts the submissions of both counsel as to the October Penalty.

47. The Discipline Committee agrees that financial circumstances are an important factor to consider in determining the appropriate penalty, and that the financial circumstances of the Members and the Pharmacy mitigate against an overly severe penalty. The Discipline Committee also accepts that the Members' lack of disciplinary history, their remorse for their misconduct, and the fact that they have entered guilty pleas are relevant mitigating factors.

48. Nevertheless, the Discipline Committee is mindful that the penalty awarded must be proportionate to the seriousness of the misconduct and act as a deterrent to similar misconduct in the future. The misconduct in this case involved access to the patient records of up to approximately 100 individuals without consent and for reasons unrelated to health care. As was the case in the *Chong, Leung and Mar* decisions referenced by Mr. Clyde, the accesses to patient records demonstrate a pattern rather than an isolated incident. The actions of the Members constitute a most serious offence, which must be reflected in the penalty ordered. The Discipline Committee requested additional submissions during the Case Management Conference to satisfy itself that the penalty ordered was in proportion to the seriousness of the misconduct and met the Discipline Committee's sentencing goals.

49. In considering the October Penalty, the Discipline Committee accepts the submission that the impact of inflation was considered when relying on past disciplinary decisions. The

Discipline Committee finds that the fines in the October Penalty are within the range established by past disciplinary decisions and reflect the seriousness of the Members' misconduct.

50. The Discipline Committee finds the order that Mr. S. Patel completes two educational courses at the Pharmacy's expense and that he be suspended from accessing PIP and eHealth is appropriate. While the Discipline Committee does not have the jurisdiction to make any orders concerning Mr. S. Patel, as he is a pharmacy assistant, the proposed order concerning Mr. S. Patel properly places the responsibility for the Pharmacy's staff's conduct on the Pharmacy and encourages the Pharmacy to engage in proper supervision.

51. Beyond the terms of the October Penalty, the Discipline Committee notes the precautions put in place to limit the risk of future privacy-related misconduct, the disclosure of the privacy breaches to the Ministry of Health's Information and Privacy Unit and the Privacy Commissioner, and the commitment to adopt all recommendations of the Privacy Commissioner to remedy past breaches of privacy and avoid future breaches.

52. In light of the high standard for disregarding joint submissions set out in *Rault*, the Discipline Committee finds that the October Penalty is an appropriate penalty. While the Discipline Committee may not have imposed the same penalty, this submission as to penalty is not unfit, unreasonable, contrary to the public interest or unhinged in any respect. The Discipline Committee sees no reason nor any justification for departing from what has been put forward with the consent of counsel for the Complaints Committee and for the Members and the Pharmacy.

53. In respect of the issue of costs, the Discipline Committee notes the factors it must consider, as set out in *Saskatchewan College of Pharmacy Professionals v Jennifer Yaholnitsky (Decision and Order)*, 2020 SKCPPDC 2 at para 68:

- a. The balance between the effect of a cost award on the Appellant and the need for the College to be able to effectively administer the disciplinary process;
- b. The respective degrees of success of the parties;

- c. Costs awards ought not to be punitive;
- d. The other sanctions imposed and the expenses associated therewith;
- e. The relative time and expense of the investigation and hearing associated with each of the charges and in particular those on which guilt were entered and those where the Appellant was found not guilty.

54. Considering the above, the Discipline Committee accepts the submissions on behalf of the Members and the Pharmacy respecting the sum of the costs order, fixing costs in the amount of \$12,000. Even though the costs were the same in the October Penalty as the June Penalty, the requested costs are reasonable given the guilty pleas and the charges contained therein. The Discipline Committee also considered the additional expenses the Members will bear because of the terms of the Order, including significant fees relating to course requirements.

55. As for time to pay the amounts set out in the October Penalty, the Discipline Committee accepts the January 2024 deadlines. The Discipline Committee notes the financial position of the Pharmacy in determining to extend the time to pay beyond the twelve months or less timeframe typically ordered for payment of fines and costs in proceedings of this nature.

Request that financial information of the Pharmacy not be made public

56. During his submissions, Mr. Wood requested that the Pharmacy's financial information submitted in the October Agreed Statement of Facts not be disclosed in the Discipline Committee's published decision.

57. The Discipline Committee finds that disclosure of the financial information submitted is neither necessary nor appropriate and accedes to Mr. Wood's request.

V. ORDER

58. Upon consideration of the evidence and the submissions of both counsel, the Discipline Committee issued the following Order for the professional misconduct, professional incompetence and proprietary misconduct committed by the Members and the Pharmacy on January 12th, 2023:

1. Pursuant to section 35(1)(f) of *The Pharmacy and Pharmacy Disciplines Act* (the "Act"), ST Enterprises Ltd. o/a 33rd Street Pharmacy (the "Pharmacy") shall be reprimanded.
2. Pursuant to section 34(1)(e) of the Act, Olatunji Obidiya shall be reprimanded.
3. Pursuant to section 34(1)(e) of the Act, Milind Patel shall be reprimanded.
4. Pursuant to section 35(2)(a)(i) of the Act, the Pharmacy shall pay a fine in the amount of \$8,000.00. The fine shall be paid on or before January 8, 2024. Failing payment, the proprietary permit for the Pharmacy shall be suspended pursuant to sections 35(2)(b) of the Act until payment is made.
5. Pursuant to section 34(2)(a)(i) of the Act, Olatunji Obidiya shall pay a fine in the amount of \$5,000.00. The fine shall be paid on or before January 8, 2024. Failing payment, Olatunji Obidiya's license shall be suspended pursuant to section 34(2)(b) of the Act until payment is made.
6. Pursuant to section 34(2)(a)(i) of the Act, Milind Patel shall pay a fine in the amount of \$5,000.00. The fine shall be paid on or before January 8, 2024. Failing payment, Milind Patel's license shall be suspended pursuant to section 34(2)(b) of the Act until payment is made.
7. Pursuant to section 35(1)(g) of the Act, the Pharmacy shall not allow Sachinkumar Patel access to PIP or eHealth until:
 - (a) Two years from the date of this decision;
 - (b) Sachinkumar Patel has completed the "CPEP PROBE: Ethics and Boundaries" course demonstrated by an unconditional pass and the Pharmacy provides proof of completion to the Registrar. The Pharmacy shall bear all costs of this course; and,
 - (c) Sachinkumar Patel has completed the Pharmaceutical Information Program Training Course – Training for Approvers and Trustees and the Pharmacy provides proof of completion to the Registrar. The Pharmacy shall bear all costs of this course.
8. Pursuant to section 34(1)(d)(ii) of the Act, Olatunji Obidiya and Milind Patel may continue to practise under the following conditions:
 - (a) Within 90 days of the date of the Discipline Committee's Order, Olatunji Obidiya and Milind Patel shall complete the Pharmaceutical Information Program Training Course - Training and Approvers and Trustees and provide proof of completion to the Registrar. Olatunji Obidiya and Milind Patel shall bear all costs of these courses.
 - (b) Within 90 days of the date of the Discipline Committee Order, Olatunji Obidiya and Milind Patel shall complete Privacy Officer Certification/Recertification and provide proof of completion to the Registrar. Olatunji Obidiya and Milind Patel shall bear all costs of these courses.

- (c) Within 120 days of the date of the Discipline Committee Order, Olatunji Obidiya and Milind Patel shall successfully complete the “CPEP PROBE: Ethics and Boundaries” course demonstrated by an unconditional pass and provide proof of completion to the Registrar. Olatunji Obidiya and Milind Patel shall bear all costs of these courses.
9. Until the courses set out in paragraph 8 are successfully completed by the respective individuals, neither Olatunji Obidiya and Milind Patel respectively shall serve as a pharmacy manager at the Pharmacy or any other proprietary pharmacy. In order to comply with Part I, section 11 of the *Regulatory Bylaws*, the conditions set out in paragraph 8 shall become effective 90 days from the date of this decision. This will allow Olatunji Obidiya and Milind Patel to arrange for a new designated pharmacy manager.
10. In the event that the courses set out above cannot be completed within the timeframe because of circumstances outside the control of Olatunji Obidiya and Milind Patel, the Discipline Committee retains jurisdiction to alter the deadline date upon hearing submissions by the Complaints Committee, Olatunji Obidiya and Milind Patel. Any request to alter or extend the deadline date must be brought before the deadline date expires.
11. In the event a course is not completed by the deadline date set out in this Order or as may be extended by the Discipline Committee, the license(s) of the individual(s) not in compliance shall be suspended until such time as the course is successfully completed and confirmation of completion is submitted to the Registrar.
12. Pursuant to sections 34(2)(a)(ii) and 35(2)(a)(ii) of the Act, the Pharmacy, Olatunji Obidiya, and Milind Patel shall be jointly and severally liable to pay the costs of the investigation and hearing which costs shall be fixed in the amount of \$12,000.00. The costs shall be paid on or before January 28, 2024. Failing payment, Olatunji Obidiya and Milind Patel's licenses and the proprietary permit held by the Pharmacy shall be suspended pursuant to section 34(2)(b) and 35(2)(b) of the Act until payment is made.
13. Pursuant to section 34(l)(f) of the Act, the Registrar shall send a copy of the Discipline Committee's decision to the Office of the Saskatchewan Information and Privacy Commissioner.
14. A digest of the Discipline Committee's decision shall be published in the College newsletter and on the College website. Further and consistent with College policy, the decision of the Discipline Committee shall be provided to CanLII for their publication as they may see fit. All personal health numbers identifiable as HSN codes shall be redacted in any publication of the written reasons.

DATED at Swift Current, Saskatchewan, this 12th day of January, 2023.

Michael Davis

M. Davis, Chairperson of the Discipline Committee of the Saskatchewan College of Pharmacy Professionals on behalf of the Discipline Committee consisting of C. Bell, B. Caven, M. Salloum, L. Wong.