

On December 19, 2019, a hearing of the Adjudication Tribunal of the Newfoundland and Labrador Pharmacy Board (NLPB) was held in the matter of a Complaint against a pharmacist registrant (Respondent). Following the hearing, the Adjudication Tribunal issued a decision finding the Respondent guilty of breaching an Undertaking given to the NLPB and of failing to respond appropriately and within a reasonable period of time to written inquiries from the NLPB. On August 24, 2020, the Adjudication Tribunal reconvened to hear submissions on the appropriate sanctions.

The Complaint originated when NLPB received information that the Respondent had not renewed his Pharmacists Association of NL (PANL) membership as required in April 2019. Two years prior, the Respondent had also failed to maintain his PANL membership and had resolved the resulting Complaint by signing an Undertaking stating that he would ensure that he kept up all registration requirements in the future. The NLPB wrote to the Respondent in May of 2019 about the alleged breach of his Undertaking and requested a response. In the months following this initial correspondence, two subsequent written inquiries and a telephone call were made to the Respondent on the matter. The Respondent did not respond to any of the NLPB's inquiries until August of 2019 when the NLPB notified the Respondent that the matter was moving forward in the complaints and discipline process. It was subsequently confirmed that the Respondent did not renew his PANL membership until more than two months after it expired.

The Adjudication Tribunal determined that the respondent had breached his Undertaking and had not responded appropriately and within a reasonable period of time to written inquiries from the NLPB, and thus found him guilty of breaching sections 85(o) and (p) of the *Newfoundland and Labrador Pharmacy Board Bylaws*.

The respondent had four prior infractions on his disciplinary record in the previous eight years for matters relating to compliance with NLPB administrative requirements, including completing required continuing education and maintaining his PANL membership. The Adjudication Tribunal stated the following with respect to the respondent's conduct:

While no patient or individual was adversely affected by the Respondent's conduct, the troubling nature of his offences and the gravity associated with them relate to the lack of respect shown toward the regulatory body. The significance that such conduct has is with respect to the public image of the profession and the public confidence in the profession, and the ability of the regulator to effectively regulate in the public interest is threatened if actions such as those taken by the Respondent are not the subject of a regulatory response.

The Adjudication Tribunal stated that "undertakings are not just pieces of paper...if an undertaking is breached it is something that has to be dealt with by the regulator or it would be allowing its ability to govern to be compromised."

Since the incidents occurred, the Respondent had retired from practice. The Adjudication Tribunal considered that the Respondent was a mature member of the profession whose behaviour could not be accounted for by inexperience or immaturity, and the offences had occurred over a period of time during which the Respondent showed no remorse or understanding that he had acted inappropriately. Although some personal stressors in the Respondent's life were considered somewhat mitigating, his history with the NLPB demonstrated his lack of respect towards the NLPB and an unwillingness to follow requirements over a period of time. The need to maintain public confidence in the integrity of the profession was an obvious consideration. The Adjudication Tribunal ordered the following:

- a. The Respondent be reprimanded;
- b. The Respondent pay a fine of \$3,000.00
- c. The Respondent pay the cost of a one day hearing;
- d. Prior to re-entering into the profession the Respondent complete at his own cost an ethics course as prescribed by the Board as well as the continuing education requirements for each year that he is out of practice and that he meet any other requirements for re-entry that may exist at the time he re-enters the profession; and
- e. To assist with general deterrence a summary of the decision and the sanctions shall be published on a no name basis in the Apothecary.