

In the Court of Appeal of Alberta

Citation: Parikh v Alberta College of Pharmacy, 2026 ABCA 207

Date: 20260623
Docket: 2401-0290AC
Registry: Calgary

Between:

Ankit Parikh

Appellant

- and -

Alberta College of Pharmacy

Respondent

The Court:

**The Honourable Justice Bernette Ho
The Honourable Justice Kevin Feth
The Honourable Justice Karan Shaner**

Memorandum of Judgment

Appeal from the Decisions by
The Panel of Council of the Alberta College of Pharmacy
Dated the 3rd day of October, 2024 and the 27th day of November, 2024

Memorandum of Judgment

The Court:

[1] The appellant challenges two decisions issued by a Panel of Council of the Alberta College of Pharmacy (council). The first confirmed decisions made by a hearing tribunal of the Alberta College of Pharmacy (hearing tribunal) finding the appellant guilty of five allegations of unprofessional conduct, and imposing sanctions on the appellant and requiring him to pay certain costs of the hearing. The second council decision ordered the appellant to pay the costs of the appeal.

[2] For the reasons that follow, the appellant's appeal of the council's decision dealing with the substantive complaints is dismissed. The appeal of the council's decisions relating to the payment of costs for proceedings before both the hearing tribunal and council is allowed.

Background

[3] The appellant was a registered member of the Alberta College of Pharmacy and the licensee of a pharmacy in a small town in Alberta. In March of 2020, a former employee, who was also a patient of the appellant (Individual A), filed a complaint that included allegations of sexual abuse and misconduct. During the investigation, the complaints director learned of three other individuals who were also both patients and employees of the appellant, and who may have also been subjected to the appellant's inappropriate behavior (Individual B, Individual C, and Individual D). These individuals all participated in the investigation.

[4] A Notice of Hearing dated July 7, 2022 listed six allegations of unprofessional conduct against the appellant. Individual A, Individual B, and Individual C testified during the hearing. Individual D did not appear, despite being issued a notice to attend.

[5] On November 24, 2023, the hearing tribunal issued a decision (Merits Decision) which found the appellant guilty of the following instances of unprofessional conduct:

- (a) The appellant engaged in sexual abuse of Individual A including by using his body to block her against a fridge, threatening to rape her if she did not have intercourse with him, and engaging in sexual intercourse with her without her consent on multiple occasions between October 2018 and September 2019;
- (b) The appellant engaged in sexual misconduct towards Individual A including by approaching Individual A and telling her that he wanted a kiss and he masturbated to the thought of her;

- (c) The appellant engaged in sexual abuse of Individual B including by asking her to perform oral sex on him for an advance on her paycheque, and engaging in sexual intercourse with her without her consent on multiple occasions;
- (d) The appellant breached his duties as a licensee when he caused Individual C to feel uncomfortable by repeatedly staring at the nametag on her chest; and
- (e) The appellant repeatedly consumed alcohol on the pharmacy premises, including when it was open to patients and he was the pharmacist in charge.

[6] On April 4, 2024, the hearing tribunal issued a decision (Sanctions Decision) that: (a) cancelled the appellant's practice permit and registration; (b) fined the appellant the amount of \$5,000.00; and (c) required the appellant to pay 75% of the costs of the investigation and hearing.

[7] On October 3, 2024, the council issued a decision (Appeal Decision) that dismissed the appellant's appeal. On November 27, 2024, the council issued a decision that required the appellant to pay 100% of the costs of the appeal, up to a maximum of \$40,000.00 (Appeal Costs Decision).

Standard of review

[8] The hearing tribunal's decision was appealed to the council pursuant to subsection 87(1) of the *Health Professions Act*, RSA 2000, c H-7 [HPA]. In reviewing the hearing tribunal's decisions, the council focuses on whether the hearing tribunal's decision involves errors of law or principle, or is not reasonably sustainable, while affording significant deference to the hearing tribunal's findings of fact: *Yee v Chartered Professional Accountants of Alberta*, 2020 ABCA 98 at paras 32-35; *Al-Hallak v Alberta College of Pharmacy*, 2025 ABCA 419 at paras 12-14; *Charkhandeh v College of Dental Surgeons of Alberta*, 2025 ABCA 258 at paras 47-50.

[9] The council's decision was appealed to this Court pursuant to subsection 90(1) of the HPA. Appellate standards of review apply: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 37; *Alsaadi v Alberta College of Pharmacy*, 2021 ABCA 313 at paras 15-16.

Analysis

[10] The appellant submits the Appeal Decision and the Appeal Costs Decision contain several errors which require appellate intervention.

(a) Change in the statutory regime applicable to sexual abuse and misconduct findings

[11] *An Act to Protect Patients*, SA 2018, c 15, which came into force on April 1, 2019, introduced amendments to the HPA related to sexual misconduct and abuse by health professionals.

[12] The following definition was added:

“sexual abuse” means the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:

- (i) sexual intercourse between a regulated member and a patient of that regulated member;

HPA, s 1(1)(nn.1)

[13] The amendments also provide that a regulated person’s permit and registration must be cancelled if findings of unprofessional conduct based on sexual abuse are established, among other things: *HPA*, ss 45(3)(a), 81.1, 82(1.1)(a). There are related provisions that apply to “sexual misconduct”: *HPA*, ss 1(1)(nn.2), 45(4), 81.1, 82(1.1)(b), 82(1.2).

[14] The hearing tribunal found the appellant engaged in non-consensual sexual intercourse with Individual A regularly between April 1, 2019 and September 2019, and accordingly, the amended *HPA* applied to this conduct. The hearing tribunal found the conduct constituted sexual abuse under the amended *HPA* and cancelled the appellant’s practice permit and registration pursuant to subsection 82(1.1)(a) of the *HPA*. The council upheld this finding.

[15] On appeal to this Court, the appellant submits the hearing tribunal should not have applied the amended *HPA* provisions to conduct that occurred after April 1, 2019 because no distinction was made in the Notice of Hearing. Instead, the allegation was framed as a single transaction in the Notice of Hearing. The appellant also submits there was no evidence to support the finding that sexual abuse occurred after April 1, 2019.

[16] The Notice of Hearing clearly contends that the appellant engaged in sexual intercourse with Individual A without consent on multiple occasions between October of 2018 and September of 2019. The hearing tribunal found that this allegation was proven based in part on Individual A’s testimony that the appellant engaged in non-consensual intercourse with her multiple times a week from April 2019 to September 2019. The amended *HPA* provisions applied beginning in April 2019 and it was open to the hearing tribunal to conclude the regular non-consensual intercourse with a patient constituted “sexual abuse” under the *HPA*. The appellant had fair notice of the case to meet in the Notice of Hearing, the findings made were consistent with the allegations in the Notice of Hearing, and the appellant has failed to establish any error was committed by virtue of the amended *HPA* provisions.

[17] We further note that the appellant’s arguments regarding the *HPA* amendments and inadequacy of the Notice of Hearing were raised for the first time before this Court. It was incumbent on him to raise that argument before the hearing tribunal and the council before raising it in this appeal: *Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*,

2011 SCC 61 at paras 22-26; *Dr Ignacio Tan III v Alberta Veterinary Medical Association*, 2026 ABCA 32 at paras 14-15.

[18] For all of these reasons, this ground of appeal is dismissed.

(b) Findings related to the appellant's credibility

[19] The hearing tribunal's findings of unprofessional conduct largely turned on its resolution of conflicting versions of events provided by the appellant on one hand, and each complainant on the other. The appellant takes issue with how the hearing tribunal resolved the conflicts in the evidence, and specifically, with how the hearing tribunal and council dealt with certain text messages adduced in evidence during the hearing.

[20] The hearing tribunal considered a series of text messages exchanged between Individual A and the appellant in December 2019 and January 2020. The hearing tribunal concluded that Individual A confronted the appellant about sexual wrongdoing in the messages, and the appellant did not ask for clarification or deny such allegations. Instead, the appellant attempted to reconcile with Individual A, discouraged her from pursuing the matter further, and offered to compensate her.

[21] The hearing tribunal clearly stated that it did not rely on the text messages to infer it was more likely Individual A was telling the truth about the sexual misconduct and abuse allegations. Rather, the hearing tribunal relied on the text messages to reject the appellant's assertion that the sexual misconduct and abuse allegations had been recently fabricated in response to the appellant's efforts to recover debts that Individual A owed to the pharmacy. The hearing tribunal found the appellant's evidence regarding the text messages was not credible and made adverse credibility findings against the appellant generally. Based on Individual A's evidence, the hearing tribunal was satisfied on a balance of probabilities that the appellant engaged in non-consensual sexual intercourse with Individual A on a regular basis beginning in October 2018 and continuing through September 2019.

[22] The appellant submits that the council erred in upholding the hearing tribunal's credibility findings and unsupportable or unreasonable inferences from the text messages. In particular, the appellant submits that the hearing tribunal erred by relying on a generalization regarding how people ought to react when confronted with an untrue allegation.

[23] We reject the appellant's assertions.

[24] First, the appellant mischaracterizes the hearing tribunal and council's reasons in several respects. The conclusions each reached were not based on generalizations. Rather, the hearing tribunal and council explained in detail why they drew the inferences they did and specifically, why each rejected the appellant's arguments for not responding to the text messages. Second, we conclude the council properly acknowledged it owed significant deference to the factual findings

of the hearing tribunal, and that this is particularly true regarding its credibility findings: *Yee* at para 35. While the appellant frames this ground of appeal as relating to several discrete errors, the appellant is instead inviting this Court to reweigh the evidence, which is not the role of an appellate court. Reading the Merits Decision and the Appeal Decision in context, we are not persuaded that there was any reviewable error related to credibility findings.

(c) Consideration of the evidence and related findings

[25] Finally, the appellant raises a series of arguments to the effect that the hearing tribunal's finding that the appellant sexually abused Individual A based on the record before it amounted to an error of law because it was based on pure speculation. The appellant submits the hearing tribunal failed to properly consider the evidence that Individual A, Individual B, and Individual C all owed money to the pharmacy, and that two of these individuals were facing civil suits to recover the outstanding funds. In addition, the appellant submits the documentary evidence, including the text messages relied on by the hearing tribunal, had only been entered as an exhibit for identification at the outset of the hearing, and that it was not open to the hearing tribunal to rely on their contents in reaching the decision. In the alternative, the appellant submits that the text messages contradict the hearing tribunal's findings.

[26] As with the appellant's second ground of appeal, the appellant's arguments amount to an invitation to reweigh the evidence. We decline to do so.

[27] Regarding whether the documentary evidence was properly before the hearing tribunal, the *HPA* provides "[e]vidence may be given before the hearing tribunal in any manner that it considers appropriate, and it is not bound by the rules of law respecting evidence applicable to judicial hearings": *HPA*, s 79(5). The text messages were initially introduced in a joint exhibit book at the outset of the hearing, which was marked as Exhibit 1. The hearing tribunal confirmed it would not consider the contents of the exhibit book until directed to specific portions by counsel during the hearing. The text messages were then introduced through witnesses in direct examination and put to the appellant in cross-examination. The appellant has not identified any procedural unfairness or substantive errors arising from the hearing tribunal's treatment of the documentary evidence. Rather, the appellant's objection is based on an erroneous assertion that the documents were not formally admitted by the hearing tribunal. The appellant has failed to establish any reviewable error in relation to the treatment of this evidence.

Costs

[28] During the hearing, the respondent noted that since the hearing tribunal and council's costs decisions in issue were released, this Court modified some of the principles that apply to costs awards in *Charkhandeh*. The respondent's primary position was that no appellate intervention was warranted, but in the alternative offered to provide a quantum of costs that complied with the principles set out in *Charkhandeh*. After the hearing, the respondent provided records to

substantiate the quantum underlying the costs awards and proposed specific reductions to the initial costs ordered. The appellant agreed to the proposed reductions.

[29] In the circumstances, we find it appropriate to vary the costs orders of the hearing tribunal and the council as set out in the respondent's proposal dated April 17, 2026, and as agreed to by the appellant: *HPA*, s 92(1)(b).

Conclusion

[30] The costs orders of the hearing tribunal and the council are varied in accordance with the respondent's proposal referenced above. The appeal is otherwise dismissed.

Appeal heard on April 14, 2026

Memorandum filed at Calgary, Alberta
this 23rd day of June, 2026

Ho J.A.

Feth J.A.

Shaner J.A.

Appearances:

Y. Niv
for the Appellant

W.W. Shores, KC (no appearance)

A. Chisholm
for the Respondent