

**UNIVERSITY OF TORONTO**

**GOVERNING COUNCIL**

Report # 394 of the Academic Appeals Committee  
**February 12, 2018**

To the Academic Board  
University of Toronto.

Your Committee reports that it held a hearing on Monday, January 15, 2018, at which the following members were present:

Professor Andrew Green (Chair)  
Professor Nicholas Terpstra, Faculty Governor  
Mr. Twesh Upadhyaya, Student Governor

Hearing Secretary:  
Mr. Chris Lang, Director, Appeals, Discipline and Faculty Grievances

**Appearances:**

**For the Student Appellant:**

Mr. Y.L. (the “Student”)

**For The Leslie Dan Faculty of Pharmacy:**

Mr. Robert A. Centa, Counsel, Paliare Roland Rosenbert Rothstein LLP  
Ms. Emily Home, Counsel, Paliare Roland Rosenbert Rothstein LLP  
Ms. Brenda Thrush, Registrar, The Leslie Dan Faculty of Pharmacy  
Professor Jamie Kellar, The Leslie Dan Faculty of Pharmacy

**The Appeal**

The Student appeals a decision of the Committee of Appeals of the Leslie Dan Faculty of Pharmacy (the “Committee of Appeals”) dated September 26, 2017 (the “Decision”). In the Decision, the Committee of Appeals dismissed an appeal by the Student from a decision to deny his petition to write a make-up supplemental examination in PHM206H1 Medication Therapy Management 3 (the “Course”). The Student had based his appeal to the Committee of Appeals on the grounds that his exam had not been assessed fairly and that he had had health issues. He did not pursue the health grounds in his appeal to this Committee.

As the Student required an expedited response in order to re-take PHM206 if he lost this appeal, we issued a decision shortly following the hearing stating that the appeal was dismissed with reasons to follow. This decision provides those reasons.

## **The Facts**

In Winter 2017, the Student was in his second year of the Doctor of Pharmacy program (the “Program”) and was enrolled in the Course. Second year students are required to pass PHM206, among other courses, in order to proceed to third year. PHM206 is part of a series of courses designed to provide students with the skills necessary to deal with real-life situations encountered by pharmacists. PHM206 involves labs in which students are faced with a “standardized patient” (an “SP”) who portrays someone with a particular set of concerns and symptoms. The SPs are provided generalized training as patients as well as training prior to their roles in particular labs. The Course involved labs during the term as well as four labs on the final exam.

The Student failed the Course along with two other courses in Winter 2017. Students must obtain an annual grade point average of at least 1.70 (C-) and at least 60% in each course in order to advance to the next year. However, if a student receives a grade of D or F but has an annual grade point average of at least 1.70, they are offered the opportunity to write a supplemental exam for that course on a pass/fail basis. The student must pass the supplemental exam to proceed to the next year. The Student had the requisite grade point average and therefore was offered the opportunity to write supplemental exams for all three courses.

The Student wrote the three supplemental exams in the summer of 2017. He passed two of the supplemental exams (Pharmacotherapy 4 and Medication Therapy Management 2) but failed the supplemental exam for the Course. To pass the supplemental exam for the Course, the Student had to pass three of four lab stations. He passed two stations but failed two stations: the best possible medical history documentation and a diabetic foot infection patient encounter. For the patient encounter, which forms the basis for the Student’s appeal, the Student needed 61 points out of 100 to pass. The points come from two equally weighted assessments of the encounter. The Student obtained 3 out of 5 on the Global Assessment (or 30 out of 50) but only 13 out of 24 on the Clinical Checklist (or 27 out of 50). The notes of the assessor for the Clinical Checklist indicates that the Student, among other things, failed to gather recent hospital medical history and the prescription and non-prescription medical history, to confirm the duration of the antibiotic therapy the patient received in hospital, to review the home medications and to consult on non-pharmaceutical interventions. As a result, the Student failed the supplemental exam as he obtained only 57 points out of 100.

The Faculty informed the Student in August 2017 that as a result of the failure of the supplemental exam in the Course, he was required to repeat PHM206H in Winter 2018 before he could proceed to the third year of the Program. The Student petitioned the failure to the sub-committee of the Committee on Academic Standing and requested the opportunity to write a make-up supplemental exam. When that petition was denied, the Student appealed the denial to the Committee of Appeals.

As mentioned, the Student had two grounds before the Committee of Appeals— one medical that he subsequently dropped and one on supplemental exam process/evaluation. The Student argued

that the supplemental exam process was unfair for two reasons. First, the SP did not provide the Student with the prescription at the start of the patient encounter. The Student argued the SP should have provided the prescription at the outset of the encounters and that SPs had done so routinely in all previous labs and exams in the Course. Second, the Student asserted that the assessor unfairly deducted points for missing a particular set of questions even though the Student states he clearly verbalized these questions. He argued that the process was unfair because the evaluation was unrecorded and therefore there was no way for him to prove such a mistake occurred.

The Faculty in its written response to these concerns prior to the Decision argued that the SP made the opening statement: “Hi, I just came from the hospital and I have to get this antibiotic filled as soon as possible.” The Faculty argued that “Based on what students were taught throughout the course, Mr. L■■ should have known to ask the SP for the prescription if she did not offer it to him at the start of the counselling session.” Further, the Faculty argued that while these patient encounter exams are not recorded, “the Clinical Instructors who were responsible for assessing students’ performance on the supplemental exam were made aware this was a “high stakes” examination and were instructed to ensure that they accurately documented the counselling sessions.”

Following a hearing, the Committee of Appeals issued the Decision dismissing the Student’s appeal. It noted “We carefully reviewed and considered the information you provided and we are sympathetic to your circumstances; however, we strongly believe that it is important for you to build a stronger base in this foundational Year 2 course before proceeding to Year 3 of the program.” The Committee of Appeals therefore informed the Student that he would not be permitted to proceed to his third year until he had successfully completed PHM206.

The Student appeals this Decision to your Committee.

### **Decision**

The Committee’s task is to decide whether the Decision denying the Student’s petition to write a make-up supplemental examination is reasonable.

The Student argued that these patient encounters always follow the same pattern. The student introduces himself or herself and then the SP makes an opening statement and provides the prescription if there is one. The Student argued that the failure by the SP to provide him with a prescription at the beginning of the exam led the Student to be confused and therefore to fail the exam. He was not asking for a re-grade of the exam as that would only relate to errors in adding up the total score. Instead, because of the SP’s error, he was seeking a make-up supplemental exam. It should be noted at the outset that both sides agree that the SP did not provide the prescription immediately to the Student at the beginning of the supplemental exam and that the Student did not ask for the prescription at the beginning of the exam. Instead the Student only asked for the name of the medication in the opening encounter and when he did ask for the prescription later in the exam, the SP immediately handed it over. The point in dispute is whether the SP erred in not handing over the prescription immediately at the start of the encounter, thereby making the exam process and result unfair.

Your Committee finds that the Decision denying the Student's petition for a make-up supplemental exam was reasonable. According to the course description and the Faculty, the Course was designed to teach students how to deal with real-life situations through "simulated practice-based interactions to enhance their patient-care skills". To this end, SPs are given explicit instructions for some parts of the interaction (such as their opening line) but for the rest of the interaction are to react to the situation as it develops. In this case, the SP's background material for the supplemental exam contained considerable information about the patient the SP was to portray including the opening line "Hi, I just came from the hospital and I have to get this antibiotic filled as soon as possible." The background material did not provide the SP with any instructions about handing over the prescription, either to hand it over immediately or to hold it back. The SP could react to whatever happened in the interaction and the Student needed to assess the situation and react to the SP.

Further, assessors for such exams are instructed to note if the SP fails to do something that she is supposed to do during the exam. In the case of the Student's exam, for example, the assessor noted that the SP failed to mention blood sugar levels as she was supposed to do according to the background material. The assessor made no comment on the SP not providing the prescription immediately, although she did note that the Student "asked what is the name of the antibiotics instead of asking for Rx." Given the SP's instructions and the notes of the assessor, it seems reasonable to conclude that the SP was not directly instructed to provide the Student with the prescription nor was it out of the ordinary for the SP not to hand it over immediately without being asked.

In addition, following the supplemental exam, the Student emailed Professor Jamie Kellar, who had taught the Course. The Student asked whether the SP had been instructed not to provide the prescription at the beginning of the lab. Professor Kellar replied that the supplemental exam was a "clinical simulation" which "will play out differently with each student based on the questions posed and comments made. The SP's will interact with the student in a way consistent with how the student asks the questions. The SPs do work off of a script that outlines the key information. In this case, the SPs were not instructed to withhold the prescription, nor were they instructed to give it voluntarily – they react based on the interview itself i.e. the questions asked by the student." This email response is consistent with the other evidence relating to the SP provided by the Faculty.

To support his argument that the SP should have provided the prescription as soon as she made her opening statement, the Student provided an email exchange relating to this issue. The Student emailed Professor Marie Rocchi at the Faculty asking if an SP makes an opening statement about needing to get "this antibiotic filled as soon as possible" but fails to voluntarily provide a prescription to a student in the beginning of the interaction until asked but does so for other students" would it be an error by the SP. Professor Rocchi replied she would "consider this an error IF the SP was asked to provide the Rx." She copied Greg Morris who manages the SP service for the University, who replied stating "I agree with Marie. In cases where the SP enters with a prescription, they immediately hand it to the pharmacist when they say their opening line. I am not aware of an example where the SP would not immediately hand over the Rx (however,

that's not to say such a case doesn't exist). If the written case instructs the SP to not immediately hand over the Rx, the SP would follow these instructions." This email exchange is at best equivocal but seems more in support of the Faculty's position.

Further in his reply submissions for this appeal, the Student provided an anonymous note on plain paper stating that given the SP referred to "this antibiotic" in her opening statement, he or she would "assume that they would then hand me a prescription, a prescription bottle or a piece of paper with the name of the antibiotic written on it. Otherwise the wording of the opening line doesn't make sense. In my two years of being an assessor, I have not seen an example where the SP did not immediately hand over the prescription to the student." The note was signed "Pharmacist mock OSCE assessor for PharmAchieve". The Student stated at the hearing that the note was not from someone connected with the Course but from someone who had been involved in assessing Pharmacy licensing exams. As the note is anonymous and in any event by someone not connected to the Course, the Committee gave this note no weight.

In terms of the recording of the supplemental exam, the Faculty does not record these patient encounter exams. Instead they have trained assessors who provide a written assessment of the interactions including any anomalies. Your Committee finds that there was no unfairness to the Student in how this policy choice was applied in his circumstances.

As a result, your Committee finds that the Decision was reasonable in the circumstances. As noted by counsel, the Committee of Appeals' reasons could have been more fulsome. However, there is ample evidence in the record that the Student would have known the arguments on which the Decision was based.

The appeal is dismissed.