

BREAKING CASE LAW

***Sobeys West Inc.
and Jace Holdings
Ltd. v. College of
Pharmacists of
British Columbia***



This Issue
The broad authority
of professions to
enact ethical rules

Sobeys West Inc. and Jace Holdings Ltd. v. College of Pharmacists of British Columbia
2016 BCCA 41

This case affirms the broad authority of self-governing professions, acting in the public interest, to make ethical rules and establish standards for the profession.

The College of Pharmacists of British Columbia passed a bylaw prohibiting pharmacists from using customer incentive programs. At the first instance, the British Columbia Supreme Court struck down the bylaw because it was overly broad and did not properly balance competing public interests. However, the British Columbia Court of Appeal overturned this decision and in doing so emphasized three important principles that apply to the decisions of self-governing professions:

1. It is in the public interest to maintain high ethical standards and professionalism within a profession.
2. A college does not require empirical evidence of harm before taking regulatory action; preventative action to prevent harm is sufficient justification.
3. In the absence of a Charter challenge, a college does not have to select the least intrusive mechanism to regulate.

This decision also affirms that the legislative decisions of regulatory bodies are presumed to have been made in the public interest. As a result, there is a burden on the challenger to prove that they are not in the public interest.

And finally, this decision affirms that a review on a standard of reasonableness does not allow a judge to intervene simply because they are of the opinion that a bylaw goes further than is prudent or necessary. So long as the by-law falls within the range of reasonable measures to respond to the concern it should be upheld.

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