

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 193 OF THE ACADEMIC APPEALS COMMITTEE

August 1st, 1995

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Tuesday, August 1st, 1995 at 9:30 a.m., in the Flavelle Room, Faculty of Law, 78 Queen's Park Crescent, at which the following were present:

Professor A. W. Mewett, Acting Chairman
Mrs. M. Coleman
Professor D. Galbraith
Professor J. T. Mayhall
Mr. A. Teekasingh

Ms L. Snowden, Secretary

In attendance:

The appellant
Ms C. Thomlinson, counsel for the appellant
Professor D. Perrier, Dean, Faculty of Pharmacy

The appeal was heard *in camera* on application of the student pursuant to Section 9(1).a of the *Statutory Powers Procedures Act*.

The decision of the Academic Appeals Committee is that the appellant's appeal be denied and the decision of the Faculty of Pharmacy be confirmed.

The appellant appealed the decision of the Faculty to deny her the right to write a supplemental examination in PHM 306Y (Medicinal Chemistry). She had failed this course at the examination written in the Spring of 1995. The student was admitted to the Pharmacy program in the Fall of 1990 and successfully completed First Year with an average of 61%. In her Second Year, she contracted pneumonia in the winter months, wrote the final examinations and received a failing average with a failure in one course. She was, however, granted permission to write a supplemental examination and was required to pass that course and raise her average to the required 60%. Permission was granted on the basis of medical evidence of her illness. The student was successful in that examination.

In the Third Year, 1992/93, the student was the victim of a sexual assault in October, 1992. She kept this fact to herself, but suffered severe mental stress as a result of this

Report Number 193 of the Academic Appeals Committee

experience and her condition was aggravated by the fact that she suffered sleeplessness, loss of appetite and influenza. During the year she missed several of the prescribed tests in two courses and in February of 1993 was found to have contracted a sexually transmitted disease which she believes resulted from the sexual assault. She received urgent treatment for this condition during the examination period of April 1993. In the result she failed three of the prescribed examinations, but was permitted, on medical grounds, to write three supplemental examinations in August, 1993. While she passed one of those, she failed two of them, namely PHM 306Y (the subject of this present appeal) and PHM 330Y (Pharmaceutics II).

It was at this point that the student confided in Dean Perrier and explained her circumstances. The Dean had suggested that the appellant seek personal counseling. In the Fall of 1993, she enrolled as a special student in order to complete the two courses in which she had received failing marks, but was still suffering extreme stress and anxiety as a result of the sexual assault, aggravated by the fact that she encountered her assailant at a couple of social functions. She missed a couple of tests during the year and, on the insistence of the Faculty, for the first time sought professional counseling but she failed to pass the examinations in either PHM 306Y or PHM 330Y. The Faculty Board of Examiners, again based on medical and compassionate grounds, gave the student permission to write supplemental examinations in both courses in August, 1994, or, at her option, permission to repeat the two courses again in 1994/95.

The student was unable to confide in her parents the circumstances of her assault and they, not having all the facts, insisted that she write the supplemental examinations. She did so, and while she passed PHM 330Y, she again failed PHM 306Y. She was then advised that she would not be permitted to write yet another supplemental in that course, the Faculty Regulations stating:

students will not be permitted to take a course and try the regular and supplemental examinations relating thereto, more than twice.

However, the student appealed that decision to the Faculty Appeals Committee and on October 13, 1994, the Committee allowed her appeal and informed her that she had been given permission to register in PHM 306Y during the Academic Year 1994/95 with the strong recommendation that she seek professional counseling, that she inform her parents of all that had transpired and that she begin auditing four courses that she had already completed for the purposes of staying in touch with the materials.

During the school year, the student broke up with her boyfriend, who then proceeded to harass her to an extent that probably amounted to a criminal offence. In addition, she contracted viral gastroenteritis and as a result again missed a test for the course. The harassment by the ex-boyfriend continued and as a result she became distraught and unable to concentrate. She nevertheless persevered and wrote the final examination in April, 1995, which she again failed with a mark of only 21%. The Faculty informed her that she would not be permitted any further accommodation and could not write a further supplemental in that course. The Faculty Appeals Committee denied her appeal and it is from that decision that she now appeals.

Report Number 193 of the Academic Appeals Committee

The Academic Appeals Committee has the deepest sympathy for this student and fully recognizes the trauma she has suffered as a result not only of the sexual assault, but also of the criminal harassment she has endured and the physical ailments that have plagued her. But the basic fact of the matter is that the student is asking to write an examination for the sixth time in a course in which previously her best mark has been 34% and her average mark about 22%.

One consideration that we must take into account is whether we feel that the student, were it not for the exceptional circumstances of the case, would have been capable of passing the course. The student's overall record is weak -- indeed, very weak. Even before any of these events occurred, she was somewhere near the bottom of her class and was actually allowed to write a supplemental examination not only to pass a course she had failed, but also to raise her overall average to the requisite 60%. With all her troubles, she does not appear to have allocated her time well.

Whether, had she sought professional counseling more expeditiously as she had been advised to do (or, on one account, required to do), things may have turned out more satisfactorily, is in our view, something which should not concern us. Victims of rape react differently and each must come to terms, as best she can, with the trauma and stress and it does not lie in our mouths, as strangers, to say that she should or should not have done this or that. This victim handled the situation as she thought best at the time, even though she had been advised on several occasions to adopt another course. That being said, however, it is now clear, in retrospect, that her's was not the best course to adopt. This does lead us to have some concern as to whether, even if given a chance for yet another supplemental examination, she could pass successfully, or, if successful, could pass her fourth year successfully. While the student feels confident about her ability to pass the examination, there is little that objectively can support such optimism. On purely academic grounds, the Committee sees no reason to interfere with the decision of the Faculty of Pharmacy.

We, therefore, are left with compassionate grounds. Should we allow the appeal on the basis that, whatever might, or should, have been done, this student should be given one last chance simply because we are truly sympathetic to her history and feel compassion for her in her difficulties? This surely has a place in the University context where the lives and careers of students are at stake. Yet when we look at all the circumstances of this student's case, it seems clear that compassion and sympathy have already been extended to her in abundance. The Faculty of Pharmacy has, it is no exaggeration to state, extended to her every consideration that could reasonably be expected. Not only has she been allowed to write this examination five times, but she has been accommodated for innumerable missed tests. We also have to consider the maintenance of Faculty standards, the integrity of the profession and fairness to all other students in all faculties, not just Pharmacy. We must ensure that some right balance is struck in looking at all these considerations. In our view, it is simply not appropriate to grant yet more relief on compassionate grounds alone when the student has already received generous relief at the Faculty level.

Our conclusion, therefore, is that, notwithstanding this student's circumstances which were either beyond her physical control or beyond her normative control, and

Report Number 193 of the Academic Appeals Committee

notwithstanding the sympathy and understanding which the Committee has for her, the appeal must be dismissed.

Ms L. Snowden
Secretary

Professor A. W. Mewett
Acting Chairman

August 15th, 1995