

BETWEEN:

COLLEGE OF NURSES OF ONTARIO

- and -

**KYLIE SOUTHWELL
REGISTRATION NO. BA355347**

NOTICE OF HEARING

IT IS ALLEGED THAT:

1. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*, S.O. 1991, c. 32, as amended, and defined in subsection 1(1) of *Ontario Regulation 799/93*, in that while you were employed as a Registered Practical Nurse at Cambridge Memorial Hospital in Cambridge, Ontario, you contravened a standard of practice of the profession or failed to meet the standards of practice of the profession when you:
 - (a) accessed and/or reviewed the personal health information in [the Patient]'s electronic medical record without consent, authorization or clinical purpose, on or around July 16, 2021; and/or
 - (b) told at least one colleague between, on or around July 15 to July 24, 2021, that [the Patient], who was a colleague at Cambridge Memorial Hospital, had been admitted to the hospital's mental health unit and/or was a formed patient;
2. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the Act, and defined in subsection 1(10) of *Ontario Regulation 799/93*, in that, while you were employed as a Registered Practical Nurse at Cambridge Memorial Hospital in Cambridge, Ontario, you gave information about a client to a person other than the client or his or her authorized representative, without the consent of the client or his or her authorized representative, and without any requirement under the law, when you shared personal health information about [the Patient] with at least one other colleague at the hospital between, on or around July 15 to July 24, 2021;

3. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code of the Nursing Act, 1991*, S.O. 1991, c. 32, as amended, and defined in subsection 1(37) of *Ontario Regulation 799/93*, in that while employed as a Registered Practical Nurse at Cambridge Memorial Hospital in Cambridge, Ontario, you engaged in conduct relevant to the practice of nursing that would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional, when you:
- (a) accessed and/or reviewed the personal health information in [the Patient]’s electronic medical record without consent, authorization or clinical purpose, on or around July 16, 2021; and/or
 - (b) told at least one colleague between, on or around July 15 to July 24, 2021, that [the Patient], who was a colleague at Cambridge Memorial Hospital, had been admitted to the hospital’s mental health unit and/or was a formed patient.

The allegations respecting professional misconduct on your part will be heard by a panel of the Discipline Committee of the College of Nurses of Ontario (“CNO”), pursuant to the *Nursing Act, 1991*, S.O. 1991, c.32, as amended, and subsection 38(1) of the *Health Professions Procedural Code*, on **May 28, 2024 at 0930 hours or as soon after that time as the hearing can be commenced**, via electronic hearing by way of teleconference or videoconference.

The details for participating in the electronic hearing will be provided to you by a Hearings Administrator. If you have not heard from a Hearings Administrator at least 48 hours in advance of the hearing, you should contact the Hearings Administration Team at: Admin-Business.Support-Hearings@cnomail.org to obtain the details for participating in the electronic hearing.

If you believe that holding an electronic hearing rather than an oral hearing is likely to cause you significant prejudice, please communicate in writing the basis for asserting such prejudice to the Hearings Administration Team at the email address listed above. To ensure the claim of prejudice can be considered by the Discipline Committee, any such concerns should be communicated to the Hearings Administration Team as soon as possible, and no later than 21 days in advance of the hearing.

Take notice that at least 48 hours before the electronic hearing is scheduled to commence, you must provide notice to the Hearings Administration Team, at the email address listed

above, of the telephone number and email address where you can be reached for the electronic hearing.

If you fail to participate in the electronic hearing in person or by representative, the panel of the Discipline Committee may proceed in your absence and you are thereafter not entitled to any further notice of the proceedings.

Where the panel of the Discipline Committee finds a member has committed an act of professional misconduct, it may make an Order doing any one or more of the following:

1. directing the Registrar to revoke the member's certificate of registration;
2. directing the Registrar to suspend the member's certificate of registration for a specified period of time;
3. directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time;
4. requiring the member to appear before the panel to be reprimanded;
5. requiring the member to pay a fine of not more than \$35,000.00 to the Minister of Finance;
6. requiring the member to reimburse CNO for funding provided for a program of therapy and counselling for a person if the act of professional misconduct was the sexual abuse of that person; and
7. requiring the member to post security acceptable to CNO to guarantee the payment of any amounts the member may be required to reimburse CNO for a program of therapy and counselling for a person who was sexually abused by the member.

Furthermore, the panel may suspend the effect of its Order for a specified period of time and on specified conditions and where it makes an Order under paragraph 2 or 3 above, it may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed by the Order on the member's certificate of registration.

Where a panel of the Discipline Committee finds a member has committed an act of professional misconduct, it may make an Order requiring the member to pay all or part of the following costs and expenses:

1. CNO's legal costs and expenses;
2. CNO's costs and expenses incurred in investigating the matter; and
3. CNO's costs and expenses incurred in conducting the hearing.

CNO intends to introduce as business records, under section 35 of the *Evidence Act*, any writings or records that were made in the usual and ordinary course of business. Without limiting the generality of the foregoing, and where applicable, CNO intends to introduce as business records medical and hospital charts.