

DISCIPLINE COMMITTEE
OF THE COLLEGE OF NURSES OF ONTARIO

PANEL:

Renate Davidson, Chairperson	Public Member
Grace Fox, NP	Member
Mary MacMillan-Gilkinson	Public Member
Desiree Ann Prillo, RPN	Member
Terah White, RPN	Member

BETWEEN:

COLLEGE OF NURSES OF ONTARIO)	<u>EMILY LAWRENCE</u> for
)	College of Nurses of Ontario
- and -)	
)	
CHRISTINA VECCHIO)	<u>MONICA TESSIER</u> for
Reg. No. AF142746)	Christina Vecchio
)	
)	
)	<u>CHRIS WIRTH</u>
)	Independent Legal Counsel
)	
)	Heard: June 11, 2018

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) on June 11, 2018 at the College of Nurses of Ontario (the “College”) at Toronto.

The Allegations

Counsel for the College advised the Panel that the College was requesting leave to withdraw the allegations set out in paragraphs 1(a), 1(b), 2(b), 2(c), 3(b) and 3(c) of the Notice of Hearing dated April 3, 2018. The Panel granted this request. The remaining allegations against Christina Vecchio (the “Member”) are as follows.

IT IS ALLEGED THAT:

1. [withdrawn];
2. 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 employed as a Registered Practical Nurse at Freedom from Addiction in Aurora, Ontario, you contravened a standard of practice of the profession or failed to meet the standards of practice of the profession as follows:
 - (a) in or about January 2017, you failed to maintain the boundaries of the therapeutic nurse-client relationship with client [], while [] was your client;
 - (b) [withdrawn]; and/or
 - (c) [withdrawn].
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 Freedom from Addiction in Aurora, Ontario, you engaged in conduct or performed an act, relevant to the practice of nursing, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, as follows:
 - (a) in or about January 2017, you failed to maintain the boundaries of the therapeutic nurse-client relationship with client [], while [] was your client;
 - (b) [withdrawn]; and/or
 - (c) [withdrawn].

Member's Plea

The Member admitted the allegations set out in paragraphs 2(a) and 3(a) in the Notice of Hearing. The Panel received a written plea inquiry which was signed by the Member. The Panel also conducted an oral plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

Agreed Statement of Facts

Counsel for the College and the Member advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which reads as follows.

THE MEMBER

1. Christina Vecchio (the “Member”) obtained a diploma in nursing from George Brown College in 2015.
2. The Member registered with the College of Nurses of Ontario (the “College”) as a Registered Practical Nurse (“RPN”) on February 24, 2016.
3. The Member was employed at Freedom from Addiction (the “Facility”) from November 29, 2016 to January 9, 2017, when she resigned.

THE FACILITY

4. The Facility is located in Aurora, Ontario.
5. The Facility is an inpatient treatment program for clients suffering from drug and alcohol addiction. The Facility has a ten day medical detox program and 36 and 90 day treatment programs. There are twenty beds for clients in treatment programs and six medical detoxification beds.
6. The Member worked as a staff nurse on a casual basis at the Facility. She primarily worked the afternoon shift, from 1600 to 2400. Her role was to monitor clients, complete medical assessments and administer medication.

THE CLIENT

7. [](the “Client”) was 24 years old at the time of the incidents.
8. He was admitted to the Facility on November 1, 2016 for substance abuse (cocaine addiction). He was discharged on January 10, 2017.
9. During his admission, the Member provided care to the Client, including administering medication and attending to a rash in his groin area.

INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT

10. On the night shift of January 8/9, 2017, the Client reported to his counsellor, [the Counsellor], that he was concerned about engaging in potential relapse behaviour. He advised [the Counsellor], that he and the Member had been hooking up in a Facility bathroom, and that this had occurred approximately ten times. He said the meetings usually happened on Sundays when the Facility held a debrief group session.
11. The Client said he and the Member developed a story to tell if they were caught, which was that the Member was checking the Client’s rash in his groin area, in private in the Facility bathroom. He also reported that he and the Member exchanged letters by leaving them in the bag at the nurse’s station that contained his vaporizer, which the Client was permitted to access. The Client also said the Member gave him a book with photographs in it.

12. [The Counsellor], confronted the Member in a series of text messages early in the morning on January 9, 2017:

[The Counsellor],: ...how could you pray [sic] on somebody in recovery, he took such a step back from this.

Member: How and and [sic] am I praying [sic] on someone. I didn't seek him out. It happened out of no where [sic] and I truly care about him and want all the best for him. Was he upset? Cuz from what I was getting he was very optimistic and positive and [sic] excited about everything [sic] and the future and the ranch when I last talk [sic] to him at work about this next steps.

I don't know what made it a step back. He's focused on himself huge and I never said anything to encourage otherwise.

[The Counsellor],: Introducing him to old addict behaviours and hooking up in the bathroom. So not cool.

Member: I had no idea this was going to happen..at all. Not planned not expected nothing. I didn't know it would get to this and I knew it was risky for me but I whst [sic] I feel is very very real. I'm sorry you have to hear that but I meant it I'm not playing around or anything or going to fuck off in the next ciuple [sic] months.

13. In the text messages, the Member begged [the Counsellor], not to report her, but she did not confirm or deny hooking up with the Client in the bathroom.
14. The Member called [the Manager], the Acting Nurse Manager, first thing the next morning. She disclosed to [the Manager] that she and the Client had been expressing feelings for each other and exchanging letters that were very supportive.
15. If the Member were to testify, she would say that she did not engage in sexual touching of the Client. The Member acknowledges that she had developed personal and romantic feelings for the Client, and had expressed those feelings to the Client in private conversation and in writing. She also admits that she gave him a gift of a book.

FACILITY POLICY

16. The Facility had a policy called *Nursing Code of Ethics*. It identified one of the ethical values of nursing to be client well-being. It stated that, "[p]romoting client well-being means facilitating the client's health and welfare, and preventing or removing harm." Among other things, nurses demonstrate a regard for client well-being by:

...

- using their knowledge and skill to promote clients' best interests in an empathetic manner;

...

- maintaining the nurse-client relationship

...

17. The Member signed the *Nursing Code of Ethics* policy, agreeing to abide by it, on December 5, 2016.

COLLEGE STANDARDS

18. The College's *Therapeutic Nurse-Client Relationship* Standard ("the Standard") places the responsibility for establishing and maintaining the limits or boundaries in the therapeutic nurse-client relationship on the nurse.
19. The Standard states:

[c]rossing a boundary means that the care provider is misusing the power in the relationship to meet his or her personal needs rather than the needs of the client, or behaving in an unprofessional manner with the client.
20. The Standard further clarifies that a nurse may cross a boundary in a number of different ways, including:
 - self-disclosure that does not meet a specified therapeutic client need;
 - failing to ensure that the nurse-client relationship promotes the well-being of the client and not the needs of the nurse;
 - giving gifts to the client or engaging in other behaviour that suggests a special relationship between the nurse and the client; and
 - entering into a personal or romantic relationship with a client.
21. It is a breach of the Standards to engage in personal or romantic relationships with client both during the therapeutic relationship, and for a period of time after the termination of the therapeutic relationship. For psychotherapeutic nursing, a nurse must not engage in a personal friendship, romantic relationship or sexual relationship with the client or the client's significant other for one year following the termination of the therapeutic relationship.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

22. The Member acknowledges that, as a professional, she was responsible for maintaining the boundaries of the nurse-client relationship, which includes maintaining the boundaries between her personal life and feelings and her professional interactions with clients, avoiding personal disclosures, and avoiding the exchange of gifts.
23. The Member admits that her relationship with the Client, as described above in paragraphs 10 to 15, breached the College's *Therapeutic Nurse-Client Relationship* Standard as alleged in allegation 2(a) of the Notice of Hearing.

24. The Member also admits that she committed the acts of professional misconduct as alleged in paragraphs 3(a) of the Notice of Hearing, and in particular, breaching the therapeutic nurse-client relationship with the Client was disgraceful, dishonourable and unprofessional, as described in paragraphs 10 to 15 above.
25. With leave of the Discipline Committee, the College withdraws the following allegations in the Notice of Hearing:
- 1 (a) and (b);
 - 2(b) and (c), and;
 - 3(b) and (c).

Decision

The College bears the onus of proving the allegations in accordance with the standard of proof, that being the balance of probabilities based upon clear, cogent and convincing evidence.

Having considered the evidence and the onus and standard of proof, the Panel finds that the Member committed acts of professional misconduct as alleged in paragraphs 2(a) and 3(a) of the Notice of Hearing. As to allegation 3(a), the Panel finds that the Member engaged in conduct that would reasonably be considered by members to be unprofessional, dishonorable and disgraceful.

Reasons for Decision

The Panel considered the Agreed Statement of Facts and the Member's plea and finds that this evidence supports findings of professional misconduct as alleged in the Notice of Hearing.

Allegation 2(a) in the Notice of Hearing is supported by paragraphs 4 - 23 in the Agreed Statement of Facts. The Member breached the standard therapeutic nurse client relationship as she had a personal and romantic relationship with a vulnerable client.

With respect to Allegation 3(a), the Panel finds that the Member's conduct was unprofessional as it was a breach of the standards of practice of the profession and demonstrated a serious and persistent disregard for her professional obligations.

The Panel also finds that the Member's conduct was dishonourable. It demonstrated an element of dishonesty and deceit through secretly planning a rendezvous with her client using clinical care as a cover for a romantic relationship. The client was in a recovery program and very vulnerable.

Finally, the Panel finds that the Member's conduct was disgraceful as it shames the Member and by extension the nursing profession. The conduct shows that the Member put her own interests above that of her very vulnerable client. This casts serious doubt on the Member's moral fitness and her inherent ability to discharge the higher obligations the public expects professionals to meet.

Penalty

Counsel for the College and the Member advised the Panel that a Joint Submission on Order had been agreed upon. The Joint Submission on Order requests that this Panel make an order as follows.

1. Requiring the Member to appear before the Panel to be reprimanded within three months of the date that this Order becomes final.
2. Directing the Executive Director to suspend the Member's certificate of registration for four months. This suspension shall take effect from the date that this Order becomes final and shall continue to run without interruption as long as the Member remains in the practising class.
3. Directing the Executive Director to impose the following terms, conditions and limitations on the Member's certificate of registration:
 - a) The Member will attend two meetings with a Nursing Expert (the "Expert"), at her own expense and within six months from the date of this Order. To comply, the Member is required to ensure that:
 - i. The Expert has expertise in nursing regulation and has been approved by the Director of Professional Conduct (the "Director") in advance of the meetings;
 - ii. At least seven days before the first meeting, the Member provides the Expert with a copy of:
 1. the Panel's Order,
 2. the Notice of Hearing,
 3. the Agreed Statement of Facts,
 4. this Joint Submission on Order, and
 5. if available, a copy of the Panel's Decision and Reasons;
 - iii. Before the first meeting, the Member reviews the following College publications and completes the associated Reflective Questionnaires, online learning modules, decision tools and online participation forms (where applicable):
 1. *Professional Standards*,
 2. *Therapeutic Nurse-Client Relationship*,
 - iv. At least seven days before the first meeting, the Member provides the Expert with a copy of the completed Reflective Questionnaires, and online participation forms;
 - v. The subject of the sessions with the Expert will include:
 1. the acts or omissions for which the Member was found to have committed professional misconduct,
 2. the potential consequences of the misconduct to the Member's clients, colleagues, profession and self,
 3. strategies for preventing the misconduct from recurring,

4. the publications, questionnaires and modules set out above, and
 5. the development of a learning plan in collaboration with the Expert;
 - vi. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards his/her report to the Director, in which the Expert will confirm:
 1. the dates the Member attended the sessions,
 2. that the Expert received the required documents from the Member,
 3. that the Expert reviewed the required documents and subjects with the Member, and
 4. the Expert's assessment of the Member's insight into her behaviour;
 - vii. If the Member does not comply with any one or more of the requirements above, the Expert may cancel any session scheduled, even if that results in the Member breaching a term, condition or limitation on her certificate of registration;
- b) For a period of 12 months from the date the Member returns to the practice of nursing, the Member will notify her employers of the decision. To comply, the Member is required to:
- i. Ensure that the Director is notified of the name, address, and telephone number of all employer(s) within 14 days of commencing or resuming employment in any nursing position;
 - ii. Provide her employer(s) with a copy of:
 1. the Panel's Order,
 2. the Notice of Hearing,
 3. the Agreed Statement of Facts,
 4. this Joint Submission on Order, and
 5. a copy of the Panel's Decision and Reasons, once available;
 - iii. Ensure that within 14 days of the commencement or resumption of the Member's employment in any nursing position, the employer(s) forward(s) a report to the Director, in which it will confirm:
 1. that they received a copy of the required documents, and
 2. that they agree to notify the Director immediately upon receipt of any information that the Member has breached the standards of practice of the profession; and
4. All documents delivered by the Member to the College, the Expert or the employer(s) will be delivered by verifiable method, the proof of which the Member will retain.

Penalty Submissions

Submissions were made by College Counsel. The Member's Counsel indicated that she agreed with those submissions.

The parties agreed that the mitigating factors in this case were:

- A. This is a young nurse whose misconduct was early in her career;
- B. She had no prior history with the College;
- C. She had resigned from her employment; and
- D. She has taken responsibility for her actions with her employer and the College.

The aggravating factors in this case were:

- A. The conduct is serious in nature;
- B. The Nurse-Client relationship is the cornerstone of the profession. A breach is detrimental to the client and the profession;
- C. The setting and the client were very vulnerable; and
- D. The Member's role should have been therapeutic.

The proposed penalty provides for general deterrence by:

A strong message to the membership to maintain professional boundaries by the public recording of the matter and the four month suspension of registration.

The proposed penalty provides for specific deterrence by:

The public recording of the matter, the four month suspension of registration and the oral reprimand.

The proposed penalty provides for remediation and rehabilitation by:

Two meetings with a nursing expert, on-line modules, and applicable reflective questionnaires pertaining to the professional standards and the nurse-client relationship.

Overall, the public is protected because:

The Member is required to notify her employer(s) for a period of 12 months so she may be monitored. Meetings and learning through insight into practice will meet the requirements of deterrence and remediation.

College Counsel submitted a case to the Panel to demonstrate that the proposed penalty fell within the range from a similar case from this Discipline Committee.

CNO v. Blaney (Discipline Committee, 2016). This case was a breach of therapeutic boundaries while the client was under the care of the Member in a jail setting. There was no allegation of sexual conduct. The member communicated by phone and letters. She provided the client with a cell phone which is a breach of jail policy. The difference in the cases was that the patient was involuntary incarcerated and R.C was a voluntary inpatient in a rehabilitation facility.

Penalty Decision

The Panel accepts the Joint Submission on Order and accordingly orders:

1. The Member is required to appear before the Panel to be reprimanded within three months of the date that this Order becomes final.
2. The Executive Director is directed to suspend the Member's certificate of registration for four months. This suspension shall take effect from the date that this Order becomes final and shall continue to run without interruption as long as the Member remains in the practising class.
3. The Executive Director is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:
 - a) The Member will attend two meetings with a Nursing Expert (the "Expert"), at her own expense and within six months from the date of this Order. To comply, the Member is required to ensure that:
 - i. The Expert has expertise in nursing regulation and has been approved by the Director of Professional Conduct (the "Director") in advance of the meetings;
 - ii. At least seven days before the first meeting, the Member provides the Expert with a copy of:
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 - iv. At least seven days before the first meeting, the Member provides the Expert with a copy of the completed Reflective Questionnaires, and online participation forms;
 - v. The subject of the sessions with the Expert will include:
 1. the acts or omissions for which the Member was found to have committed professional misconduct,

2. the potential consequences of the misconduct to the Member's clients, colleagues, profession and self,
 3. strategies for preventing the misconduct from recurring,
 4. the publications, questionnaires and modules set out above, and
 5. the development of a learning plan in collaboration with the Expert;
- vi. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards his/her report to the Director, in which the Expert will confirm:
1. the dates the Member attended the sessions,
 2. that the Expert received the required documents from the Member,
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 4. the Expert's assessment of the Member's insight into her behaviour;
- vii. If the Member does not comply with any one or more of the requirements above, the Expert may cancel any session scheduled, even if that results in the Member breaching a term, condition or limitation on her certificate of registration;
- b) For a period of 12 months from the date the Member returns to the practice of nursing, the Member will notify her employers of the decision. To comply, the Member is required to:
- i. Ensure that the Director is notified of the name, address, and telephone number of all employer(s) within 14 days of commencing or resuming employment in any nursing position;
 - ii. Provide her employer(s) with a copy of:
 1. the Panel's Order,
 2. the Notice of Hearing,
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 5. a copy of the Panel's Decision and Reasons, once available;
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 1. that they received a copy of the required documents, and
 2. that they agree to notify the Director immediately upon receipt of any information that the Member has breached the standards of practice of the profession; and

4. All documents delivered by the Member to the College, the Expert or the employer(s) will be delivered by verifiable method, the proof of which the Member will retain.

Reasons for Penalty Decision

The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate nurses. This is achieved through a penalty that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation and remediation. The Panel also considered the penalty in light of the principle that joint submissions should not be interfered with lightly.

The Panel concluded that the proposed penalty is reasonable and in the public interest. The Member has co-operated with the College and, by agreeing to the facts and a proposed penalty, has accepted responsibility for her actions. The Panel finds that the penalty satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection. Self-regulation is a privilege and the betrayal of trust with a vulnerable client is not to be taken lightly. The penalty is in line with what has been ordered in a previous case.

I, Renate Davidson, Public Member, sign this decision and reasons for the decision as Chairperson of this Discipline Panel and on behalf of the members of the Discipline Panel.

Chairperson

Date