

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF NURSES OF ONTARIO**

PANEL:	Tammy Hedge, RPN	Chairperson
	Karen Laforet, RN	Member
	Desiree Ann Prillo, RPN	Member
	Devinder Walia	Public Member

BETWEEN:

COLLEGE OF NURSES OF ONTARIO)	<u>EMILY LAWRENCE</u> for
)	College of Nurses of Ontario
- and -)	
)	
ISAGANI MATEO ESTRELLA)	<u>ABBA KATZ</u> for
Registration No. AA810007)	Isagani Mateo Estrella
)	
)	<u>LUISA RITACCA</u>
)	Independent Legal Counsel
)	
)	Heard: October 24, 2017

DECISION AND REASONS ON PENALTY

The Panel released its decision and reasons in this matter on August 18, 2017. The Panel made findings of professional misconduct against Isagani Mateo Estrella (the “Member”). In particular, the Panel found that the Member committed acts of professional misconduct as alleged in paragraphs # 2(a), (c), (d), (e) and (f); # 3(a); # 4(a), (c), (d), (e) and (f) of the Notice of Hearing, including that the Member engaged in conduct that would reasonably be considered by members of the profession to be dishonourable and unprofessional. The Panel did not make findings that the Member had committed acts of professional misconduct as alleged in paragraphs 1(a), 1(b), 2(b) and 4(b) of the Notice of Hearing. Those allegations related to sexual abuse. The Panel dismissed those allegations against the Member.

The Panel reconvened on October 24, 2017 at the College of Nurses of Ontario (the “College”) for the penalty hearing. At the commencement of the hearing, the parties were advised that Robert MacKay, a former Discipline Committee member who had taken part in the liability portion of this hearing was no longer available to participate. There was no objection by any party to the remaining Panel members continuing with the hearing.

Counsel for the College and the Member advised the Panel that a Joint Submission on Order had been agreed upon. The parties jointly requested that the 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 six 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 a minimum of two meetings with a Nursing Expert (the "Expert") at his own expense and within six months from the date of this Order. If the Expert determines that a greater number of sessions are required, the Expert will advise the Director of Professional Conduct (the "Director") regarding the total number of sessions that are required and the length of time required to complete the additional sessions, but in any event, all sessions shall be completed within one year 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*
 3. *Documentation*
 4. *Consent*
 - iv. Before the first meeting, the Member completes the College of Registered Nurses of British Columbia online learning module, *Communication in Nursing Practice Module*, and the accompanying workbook located at:
<https://www.crnbc.ca/Lists/Flash%20Modules/Communications/player.html>

- v. 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;
 - vi. 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;
 - vii. 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 his behaviour;
 - viii. 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 his certificate of registration;
- b) For a period of 24 months from the date the Member returns to the practice of nursing, the Member will notify his 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 his 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 and the Member's Counsel.

The parties agreed that the fact that the Member had no prior disciplinary record with the College was a mitigating factor in this case.

Further, counsel for the Member advised the Panel that the Member has been an RPN since 2001, but has not practised for over a year and a half, since the allegations were made. Counsel also advised that the Member had insight into his need for more education and has already enrolled in a fourteen week course on health assessments, that includes the topic of proper documentation. Through his counsel, the Member acknowledges his need to be more client focused in his practice and to be more aware of following the appropriate standards. Finally, counsel for the Member pointed out that this matter related to one client only.

College counsel reviewed the aggravating factors in this case, which included the seriousness of the findings and the fact that the Member's conduct caused clear harm and injury to the client.

Further, College counsel submitted that the proposed penalty provides for general deterrence, as the length of suspension sends the message that the Discipline Committee views this conduct seriously and that such conduct will not be tolerated. The findings make clear that obtaining consent from clients is of paramount importance as is engaging in only appropriate and necessary care. made on some, not all, of the allegations show the importance of consent, and engaging only in appropriate care.

The proposed penalty also provides for specific deterrence through the lengthy suspension. The time away from the profession will allow for reflection, and the meetings with the expert reduce the likelihood that the Member will engage in similar conduct in the future.

The proposed penalty provides for remediation and rehabilitation through the meetings with the expert, the reprimand and the employer notification.

Overall, the public is protected because the Member has the opportunity to reflect on his past practice and improve his future practice. The penalty sends a strong message that this type of conduct will not be tolerated. The employer notification provision adds a further layer of protection for the public as it will ensure heightened oversight of the Member's practise for a period of time.

Counsel advised that they were not submitting cases for the Panel to consider, as there were no cases with similar circumstances. Counsel, however, did assure the Panel that the penalty proposed was in a reasonable range of possible results.

Penalty Decision

The panel accepts the Joint Submission as to 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 six 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 a minimum of two meetings with a Nursing Expert (the "Expert") at his own expense and within six months from the date of this Order. If the Expert determines that a greater number of sessions are required, the Expert will advise the Director of Professional Conduct (the "Director") regarding the total number of sessions that are required and the length of time required to complete the additional sessions, but in any event, all sessions shall be completed within one year 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;
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- v. 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;
 - vi. 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;
 - vii. 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 his behaviour;
 - viii. 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 his certificate of registration;
- b) For a period of 24 months from the date the Member returns to the practice of nursing, the Member will notify his 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 his employer(s) with a copy of:
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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 unless accepting the joint submission would bring the administration of justice into disrepute or otherwise be contrary to the public interest.

The Panel concluded that the proposed penalty is reasonable and in the public interest. The Member has co-operated with the College on the question of penalty and, by agreeing the proposed penalty, has shown that he has accepted responsibility. The Panel finds that the penalty satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection.

The Panel notes that the Member took great steps to improve upon his practice before the penalty hearing. He did so on his own time. This demonstrated to the Panel that the Member clearly had some insight into The shortcomings of his conduct that led to the findings of professional misconduct.

I, Karen Laforet, RN, sign this decision and reasons on behalf of the Chairperson and the members of this Discipline panel.