

DISCIPLINE COMMITTEE
OF THE COLLEGE OF NURSES OF ONTARIO

PANEL:	TANYA DION, RN	Chairperson
	RENATE DAVIDSON	Public Member
	MARY MACMILLAN-GILKINSON	Public Member
	GEORGE RUDANYCZ, RN	Member
	TERAH WHITE, RPN	Member

BETWEEN:

COLLEGE OF NURSES OF ONTARIO)	<u>JEAN-CLAUDE KILLEY</u> for
)	College of Nurses of Ontario
- and -)	
)	<u>KIM PATENAUDE</u> for
GHISLAIN WARD)	Ghislain Ward
Reg. No. 11443128)	
)	<u>ANDREA GONSALVES</u>
)	Independent Legal Counsel
)	
)	Heard: OCTOBER 27, 2017

DECISION AND REASONS

[February 1, 2018 Addendum: Following the release of our Reasons for Decision, it was brought to the panel’s attention that the panel’s Decision and Reasons signed on December 31, 2017 contained a few errors. On review of the Decision and Reasons, the panel identified the errors as typographical errors and made corrections as follows: on page 5, para. 17, the spelling of Dr. Youssef’s name is now correct; page 5, paras. 19 and 20 now reads “as described in paragraphs 6 to 18”; page 6, para. above the heading penalty now reads “...reasonably be regarded as dishonourable and unprofessional”; on pgs. 6, 7 and 9, stray periods identified at the end of some paragraphs have been deleted.]

This matter came on for hearing before a panel of the Discipline Committee (“the panel”) on October 27, 2017 at the College of Nurses of Ontario (“the College”) at Toronto.

The Allegations

The allegations against Ghislain Ward (the “Member”) as stated in the Notice of Hearing dated September 8, 2017 are as follows.

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 practising as a Registered Nurse at Monfort Hospital in Ottawa, Ontario (the “Facility”), you contravened a standard of practice of the profession or failed to meet the standard of practice of the profession, and in particular:

- a. between about May 19 to 21, 2014, you accessed a client’s personal information for a non-health-related purpose;
 - b. between about May 19 to 21, 2014, you sent a personal text message to a client and/or made a romantic overture to a client and/or stated that it was sad that the client had a boyfriend or words to that effect;
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(8) of *Ontario Regulation 799/93*, in that, while practising as a Registered Nurse at the Facility, you misappropriated property from the workplace, and in particular, you misappropriated a blank prescription sheet from the Facility;
3. You have committed an act of professional misconduct as provided by subsection 5(2) of the *Nursing Act, 1991*, S.O. 1991, c. 32, as amended, and/or 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(19) of *Ontario Regulation 799/93*, in that you contravened a provision of the *Nursing Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts, and in particular, on or about May 26, 2015, you performed the controlled act of prescribing a drug, contrary to s 5(1) of the *Nursing Act, 1991*, S.O. 1991, c. 32, and s. 27(1) of the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18.;
4. 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 practising as a Registered Nurse at the Facility, 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 of the profession as disgraceful, dishonourable or unprofessional, and in particular:
 - a. between about May 19 to 21, 2014, you accessed a client’s personal information for a non-health-related purpose;
 - b. between about May 19 to 21, 2014, you sent a personal text message to a client and/or made a romantic overture to a client and/or stated that it was sad that the client had a boyfriend or words to that effect; and
 - c. on or about May 26, 2015, you prescribed a drug to yourself, and/or used a blank prescription sheet you had misappropriated from the Facility, and/or forged a physician’s signature on a prescription for yourself.

Member’s Plea

The Member admitted the allegations set out in paragraphs 1 (a) & (b), 2, 3, and 4 (a), (b), & (c) 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. Ghislain Ward (the "Member") obtained a degree in nursing from Université de Moncton in 2004.
2. The Member registered with the College of Nurses of Ontario (the "College") as a Registered Nurse ("RN") on January 17, 2011. The Member resigned from the College on February 16, 2016.
3. The Member was employed at Montfort Hospital (the "Hospital") from January 17, 2011 to June 4, 2015, when his employment was terminated as a result of the incidents below. The Member filed a grievance, and as a result, he was permitted to resign rather than have his employment terminated.

THE HOSPITAL

4. The Hospital is located in Ottawa, Ontario.
5. The Member worked as a full-time staff nurse in the Emergency Department.

INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT

Breach of Privacy and the Therapeutic Nurse-Client Relationship

6. [the Client] (the "Client") was 28 years old at the time of the incident.
7. On May 19, 2014, at approximately 23:30, the Client attended the Emergency Department at the Hospital complaining of stomach pain.
8. The Member was working the night shift, from 23:30 to 07:30. The Member provided care to the Client in the resuscitation area, but he was not assigned to the Client. He was covering for a co-worker who was on break. The Member inserted the Client's IV. The Client was discharged the following morning.
9. On May 20, 2014, after the Client's discharge, the Member initiated a text message exchange with the Client as follows:

Member: Hi. Are you feeling better?

Client: Who is this? Sorry new phone.

Member: I am not suppose to do that. But thi [sic] is Brandon. I was the nurse who put you an IV in ;-) I am not on Facebook so... I was trying to find a new way to speak with you. And your mom said something about you not having a boyfriend :-)

Client: Oh sorry I do have a boyfriend

Member: Ohhh I am so sorry

Client: It's ok lol I'm sorry my mom has a lot of explaining to do

Member: Lol Are you feeling better?

Client: Yes thank u take care

Member: Ok. Bye Sad that you have a boyfriend

Client: How did you get my number?

Member: I am feeling bad. I realy tought [sic] you were single. Sorry again :/ Take care

10. The Member obtained the Client's contact information from her chart.
11. On May 21, 2014, the Client's boyfriend emailed the Hospital to complain that the Client's privacy had been breached by the Member.
12. The Member was suspended with pay while the Hospital investigated. He was ultimately required to complete reflective exercises and to review Hospital policies and College standards.
13. The Member admits that his interactions with the Client were a breach of the Client's privacy and the College's *Therapeutic Nurse-Client Relationship* standard.

Misappropriation of Prescription Pad

14. Blank prescription pads were kept in the physicians' desk at the Hospital and were used by physicians only.
15. At some point prior to May 26, 2015, the Member misappropriated a prescription pad from [Doctor A], an Emergency Department physician. The Member kept the prescription pad at home.

16. On May 26, 2015, the Member diagnosed himself with sinusitis and wrote himself a prescription for Amoxicillin. In particular, the Member wrote himself a prescription for “Amoxicillin 500mg b.i.d. [i.e. twice a day] x 10 days”. He then forged [Doctor A’s] signature on the prescription.
17. The Member prescribed himself a non-standard dose of the medication, prompting the pharmacist to follow-up with the Unit Clerk who followed up with [Doctor A] to verify whether [Doctor A] wished to increase the prescription to 500mg t.i.d. [i.e. three times a day – the recommended dose for sinusitis] or whether he indeed intended to direct that the medication be taken twice a day. [Doctor A] denied writing the prescription and immediately called the pharmacy to cancel the prescription.
18. When confronted, the Member admitted that he forged the prescription, explaining that he did not want to bother going to his family doctor for a prescription.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

19. The Member admits that he committed the acts of professional misconduct, as described in paragraphs 6 to 18 above, and as alleged in the following paragraphs of the Notice of Hearing:
 - 1(a) in that the Member admits he accessed the Client’s personal information for a non-health related purpose, contrary to the College’s practice standard *Professional Standards*;
 - 1(b) in that the Member admits that he breached the *Therapeutic Nurse-Client Relationship* standard when sent personal text messages to the Client after discharge;
 - 2 in that the Member admits he misappropriated a blank prescription pad from the Hospital;
 - 3 in that he performed the controlled act of prescribing a drug when he prescribed himself Amoxicillin.
20. The Member admits that he committed the acts of professional misconduct as alleged in paragraphs 4(a), (b) and (c) of the Notice of Hearing, in that his conduct would reasonably be regarded by members of the profession as dishonourable and unprofessional, as described in paragraphs 6 to 18 above.

Decision

The Panel finds that the Member committed acts of professional misconduct as alleged in paragraphs 1 (a) and (b), 2, 3, and 4 (a), (b), and (c) of the Notice of Hearing. As to allegation #4, the Panel finds the Member engaged in conduct that would reasonably be regarded by members of the profession to be dishonourable and unprofessional.

Reasons for Decision

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

Allegation #1 (a) in the Notice of Hearing is supported in particular by paragraphs 9 through 13, and 19 in the Agreed Statement of Facts. The Member accessed the Client's personal information for a non-health related purpose, which is clearly a breach of the *Therapeutic Nurse-Client Relationship* standard.

Allegation #1 (b) in the Notice of Hearing is also supported by paragraphs 9 through 13, and 19 in the Agreed Statements of Facts. It was inappropriate and a clear breach of the *Therapeutic Nurse-Client Relationship* standard for the Member to have sent personal text messages to the Client.

Allegation #2 in the Notice of Hearing is supported by paragraphs 14 through 19 in the Agreed Statement of Facts. The Member took [Doctor A's] prescription pad from the Hospital. These prescription pads are available at the physicians' desk and are only to be used by the physicians themselves. Misappropriating the prescription pads was a serious breach of the Member's professional obligations.

Allegation #3 in the Notice of Hearing is supported by paragraphs 16 through 19 in the Agreed Statement of Facts. It is clearly outside of the scope of the Member's practice to perform the controlled act of prescribing a drug. In this case, he appears to have made the prescription for himself, regardless this was a clear and serious contravention.

With respect to Allegation #4, the Panel finds that the Member's conduct, both regard to accessing the Client's personal information and in sending personal text messages, was dishonourable and unprofessional. The conduct demonstrated a serious disregard for his professional obligations to maintain and preserve the therapeutic nurse-client relationship. His decision to reach out to the Client and to send a personal text message was clearly unacceptable. The Member knew or ought to have known that taking the Client's personal information and then sending a personal text was wrong.

The Panel also finds that the Member's conduct in relation to misappropriating and then using the prescription pad for himself would reasonably be regarded as dishonourable and unprofessional. Again, this conduct showed a serious disregard for his professional obligations and an element of deceit that the Member knew or ought to have known was wrong. Performing a controlled act outside of his scope of practice was wrong and could have had significant consequences.

Penalty

Counsel for the College and the Member advised the Panel that a Joint Submission on Order has been agreed upon. The Joint Submission 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.

Penalty Submissions

Counsel for the College and the Member advised the Panel that the Member had entered into an undertaking with the Executive Director of the College dated October 17, 2017 (the “Undertaking”) in which he undertakes, acknowledges, and agrees that, among other things:

- He resigned as a member of the College on February 16, 2016;
- To permanently resign as a member of the College effective from the date upon which the College accepts the Undertaking;
- To not apply for membership with the College as a Registered Nurse or Registered Practical Nurse at any time in the future;
- That the public portion of the College’s Register will indefinitely reflect that he entered into the Undertaking to permanently resign as part of an agreed resolution of allegations of professional misconduct.
- That the College is authorized to and may, in its sole discretion, provide a copy of the Undertaking and/or its terms to a governing body that regulates nursing in Canada or elsewhere in response to an inquiry or otherwise.

In light of the Undertaking, College Counsel submitted that the proposed penalty order supported general deterrence, protection of the public interest and maintained public confidence in the ability of the nursing profession to regulate its members.

The Member resigned from the College on February 16, 2016 and has agreed not to apply for membership at any time in the future. The Undertaking includes provision for the College to provide, at its sole discretion, a copy of the Undertaking and /or its terms to regulators in other jurisdictions.

Public confidence in the profession’s ability to regulate its members is maintained, as the Undertaking was reached within the context of an admission by the Member and an entry on the Member’s public record.

Counsel submitted the following cases to the panel to demonstrate that the proposed penalty is within the range of similar cases from this Discipline Committee.

CNO vs Ester Cruz (Discipline Committee, April, 2017). This case related to acts of professional misconduct in which the member stole 162 client labels containing personal health information and provided those labels to a third party for monetary gain. The member entered into an Undertaking with the College that included a permanent resignation, that she would not apply for membership with the College in the future and that the public portion of the College’s Register would indefinitely reflect that she entered into the Undertaking as part of an agreed resolution of allegations of professional misconduct. The member also received an oral reprimand.

CNO vs Marie Smith (Discipline Committee, March 2, 2017). This case related to acts of professional misconduct involving verbal, physical, and/or emotional abuse of a client. The member entered into an Undertaking with the College that included a permanent resignation, that she would not apply for membership with the College in the future and that the public portion of the College’s Register would indefinitely reflect that she entered into the Undertaking as part of an agreed resolution of allegations of professional misconduct. The member also received an oral reprimand.

CNO vs Paul Wood (Discipline Committee, December 2, 2012). This case related to acts of professional misconduct involving the member's failure to maintain boundaries in the nurse-client relationship. The member entered into an Undertaking with the College that included a permanent resignation as a member of the College, and agreement not to contact the client or the client's family. The member also received an oral reprimand.

CNO vs Lee Ann Eno (Discipline Committee, January 6, 2016) This case related to a nurse's failure to maintain therapeutic boundaries. The nurse entered into a personal relationship with a client's spouse and solicited large sums of money from the client's spouse and failed to re-pay the money. The member entered into an Undertaking with the College that included a permanent resignation as a member of the College. The member also received an oral reprimand.

Penalty Decision

The panel accepts the Joint Submission as to Order and accordingly orders:

1. The Member to appear before the Panel to be reprimanded within three months of the date of this Order.

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 by entering into the Undertaking with the College, has accepted responsibility. The Panel found that the penalty satisfies the principles of specific and general deterrence, and public protection. The Member has permanently resigned his membership with the College. He will be unable to practice nursing as a member of this College in this Province again. Public protection is further supported in that the College will publish the findings from this hearing and retain the ability to notify regulators in other jurisdictions should the Member seek registration in the nursing profession somewhere else. The Panel acknowledges that this penalty does not address specific deterrence or remediation as the Member has resigned from the profession.

Finally, the Panel notes that this penalty is in line with previous cases where members have agreed to permanently resign from the College.

I, TANYA DION, 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