

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

<b>PANEL:</b>	Heather Stevanka, RN	Chairperson
	Sylvia Douglas	Public Member
	Carly Hourigan	Public Member
	Michael Schroder, NP	Member
	Josee Wright, RPN	Member

**BETWEEN:**

COLLEGE OF NURSES OF ONTARIO	)	<u>DENISE COONEY</u> for
	)	College of Nurses of Ontario
- and -	)	
	)	
ADWOA MAINOO	)	<u>NO REPRESENTATION</u> for
Registration No.: JC02810	)	Adwoa Mainoo
	)	
	)	<u>CHRISTOPHER WIRTH</u>
	)	Independent Legal Counsel
	)	
	)	Heard: November 3, 2020

**DECISION AND REASONS**

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) of the College of Nurses of Ontario (the “College”) on November 3, 2020, via videoconference.

**Publication Ban**

College Counsel brought a motion pursuant to s.45(3) of the *Health Professions Procedural Code* of the *Nursing Act*, 1991, for an order preventing public disclosure and banning publication or broadcasting of the name, or any information that could disclose the identity of the patient referred to orally or in any documents presented in the Discipline hearing of Adwoa Mainoo.

The Panel considered the submissions of the Parties and decided that there be an order preventing public disclosure and banning publication or broadcasting of the name, or any information that could disclose the identity of the patient referred to orally or in any documents presented in the Discipline hearing of Adwoa Mainoo.

## **The Allegations**

The allegations against Adwoa Mainoo (the “Member”) as stated in the Notice of Hearing dated September 30, 2020 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 employed as a Registered Practical Nurse at Greenview Seniors Residence in Toronto, Ontario (the “Facility”), you contravened a standard of practice of the profession or failed to meet the standard of practice of the profession in that:
  - a. in or about December 2018, you solicited funds from [the Patient];
  - b. in or about December 2018, you implied that you would withhold medication from [the Patient] if she did not provide you with funds;
  - c. in or about December 2018, you accepted a cheque for \$1,500 from [the Patient];
  - d. in or about December 2018, you cashed a cheque for \$1,500 from [the Patient];
  - e. on or about February 22, 2019, you solicited funds from [the Patient];
  - f. on or about February 22, 2019, you implied that you would withhold medication from [the Patient] if she did not provide you with funds; and/or
  - g. on or about February 22, 2019, you removed funds from [the Patient’s] wallet and/or purse and kept those funds for your personal use.
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 subsection 1(7) of *Ontario Regulation 799/93* in that, while employed as a Registered Practical Nurse at the Facility, you abused [the Patient], verbally, physically and/or emotionally in that:
  - a. in or about December 2018, you solicited funds from [the Patient];
  - b. in or about December 2018, you implied that you would withhold medication from [the Patient] if she did not provide you with funds;
  - c. in or about December 2018, you accepted a cheque for \$1,500 from [the Patient];
  - d. in or about December 2018, you cashed a cheque for \$1,500 from [the Patient];
  - e. on or about February 22, 2019, you solicited funds from [the Patient];
  - f. on or about February 22, 2019, you implied that you would withhold medication from [the Patient] if she did not provide you with funds; and/or
  - g. on or about February 22, 2019, you removed funds from [the Patient’s] wallet and/or purse and kept those funds for your personal use.

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(8) of *Ontario Regulation 799/93*, in that, while employed as a Registered Practical Nurse at the Facility, you misappropriated property from a patient, and in particular:
  - a. in or about December 2018, you cashed a cheque for \$1,500 from [the Patient]; and/or
  - b. on or about February 22, 2019, you removed funds from [the Patient's] wallet and/or purse and kept those funds for your personal use.
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 employed as a Registered Practical 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 as disgraceful, dishonourable or unprofessional in that:
  - a. in or about December 2018, you solicited funds from [the Patient];
  - b. in or about December 2018, you implied that you would withhold medication from [the Patient] if she did not provide you with funds;
  - c. in or about December 2018, you accepted a cheque for \$1,500 from [the Patient];
  - d. in or about December 2018, you cashed a cheque for \$1,500 from [the Patient];
  - e. on or about February 22, 2019, you solicited funds from [the Patient];
  - f. on or about February 22, 2019, you implied that you would withhold medication from [the Patient] if she did not provide you with funds; and/or
  - g. on or about February 22, 2019, you removed funds from [the Patient's] wallet and/or purse and kept those funds for your personal use.

### **Member's Plea**

The Member admitted the allegations set out in paragraphs 1(a), (b), (c), (d), (e), (f), (g), 2(a), (b), (c), (d), (e), (f), (g), 3(a), (b), 4(a), (b), (c), (d), (e), (f) and (g) 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**

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

#### **THE MEMBER**

1. Adwoa Mainoo (the "Member") obtained a certificate in nursing from George Brown College in December 2002.

2. The Member registered with the College of Nurses of Ontario (“CNO”) as a Registered Practical Nurse (“RPN”) on March 5, 2003. Her certificate of registration was suspended for non-payment of fees from February 15, 2011 to March 15, 2011.
3. The Member resigned from CNO on October 2, 2020 and is currently not entitled to practice nursing in Ontario.

## **THE FACILITY**

4. Greenview Seniors Residence (the “Facility”) is a retirement residence, located in Toronto, Ontario, with 83 beds.
5. The Member was employed as a part-time RPN at the Facility from October 18, 2018 to February 22, 2019. Her employment was terminated as a result of the incidents described below.
6. Prior to commencing employment, the Member received a Facility orientation. The Facility’s *Employee Handbook* explains that all staff are prohibited from accepting gifts, money and gratuities from residents.

## **THE PATIENT**

7. [ ] (the “Patient”) was a 69-year-old female diagnosed with Parkinson’s disease, depressive episodes and bipolar affective disorders.

## **INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT**

### **Acceptance and Deposit of Personal Cheque from the Patient**

8. On December 4, 2018, the Member entered the Patient’s room at the Facility at approximately 0500 to administer a scheduled medication.
9. Before administering the medication, the Member asked the Patient to give her \$3,000. The Member told the Patient that she needed the money to pay first and last month’s rent.
10. When the Patient asked to think about the Member’s financial request, given it was a substantial amount of money, the Member responded with words to the effect of, “we don’t have time to think about”.
11. The Patient felt pressured by the Member to provide her with the funds she had requested in order to receive her scheduled medication. She later reported that she was apprehensive about the kind of treatment she would receive from the Member if she did not immediately comply with the Member’s request.
12. The Member went into the Patient’s purse and removed the Patient’s personal chequebook without the Patient’s permission.

13. The Member presented the Patient with a blank cheque and made a comment to the effect of, “all ready to go and you could just sign it.”
14. The Patient wrote and signed a cheque for \$1,500 made payable to the Member, instead of the \$3,000 the Member had requested.
15. The Member accepted the Patient’s signed cheque for \$1,500. The Member administered the Patient’s scheduled medication and left the room.
16. On December 31, 2018, the Member cashed the \$1,500 cheque received from the Patient.

#### **Removal of Two \$50 Bills from the Patient’s Wallet/Purse**

17. On February 22, 2019, the Member entered the Patient’s room at the Facility at approximately 0500 hours to administer a scheduled medication.
18. Before administering the Patient’s medication, the Member asked the Patient for \$100 to buy groceries.
19. As with the incident in December 2018, the Patient again felt pressured by the Member to provide the Member with funds before she would receive her scheduled medication. The Patient reported that once again she felt that the Member would withhold her medication unless she immediately gave the Member the funds.
20. The Patient initially refused to give the Member the \$100 but felt that she “had to do [it]” because she was unsure what kind of treatment she would receive from the Member if she declined to give her the funds.
21. The Member went into the Patient’s purse or wallet and removed two \$50 bills.
22. The Member administered the Patient’s scheduled medication and left the room.
23. After learning of these incidents, the Facility credited the Patient \$1,600 towards her fees at the Facility. The Facility demanded reimbursement for these amounts from the Member. To date, the Member has not reimbursed the Facility.

#### **CNO STANDARDS OF PRACTICE**

24. CNO publishes nursing standards to set out the expectations for the practice of nursing. CNO’s published standards inform nurses of their accountabilities and apply to all nurses regardless of their role, job description or area of practice.

### ***Professional Standards***

25. The *Professional Standards* practice standard states that each nurse is accountable to the public and responsible for ensuring that her/his practice and conduct meets legislative requirements and the standards of the profession. A nurse demonstrates this standard by providing, facilitating, advocating and promoting the best possible care for patients.
26. Moreover, nurses are held accountable to providing patients with ethical and competent care. Ensuring patient safety and well-being are never compromised is a touchstone of a nurse's obligations toward her/his patient.
27. The *Professional Standards* practice standard also requires nurses to maintain respectful, collaborative, therapeutic and professional relationships. A nurse demonstrates this standard by maintaining the boundaries between professional therapeutic relationships and non-professional personal relationships.
28. Nurses are expected to ensure that patients' needs remain the focus of nurse-patient relationships. This includes safeguarding patients from potential abuse, especially during interactions where power imbalances could impact interactions between the nurse and the patient.

### ***Therapeutic Nurse-Client Relationship Standard***

29. The *Therapeutic Nurse-Client Relationship Standard* ("the TNCR Standard") places the responsibility for establishing and maintaining the limits and boundaries in the therapeutic nurse-patient relationship on the nurse.
30. The TNCR Standard also generally prohibits nurses from engaging in financial transactions unrelated to the provision of care, and activities that could result in monetary, personal, or other material benefit, gain or profit for the nurse (other than the appropriate remuneration for nursing care or services), or result in monetary or personal loss for the patient.
31. The TNCR defines abuse as follows:

Abuse means the misuse of the power imbalance intrinsic in the nurse-client relationship. It can also mean the nurse betraying the [patient's] trust or violating the respect or professional intimacy inherent in the relationship, when the nurse knew, or ought to have known, the action could cause, or could be reasonably expected to cause, physical, emotional or spiritual harm to the [patient]. Abuse may be verbal, emotional, physical, sexual, financial or take the form of neglect. The intent of the nurse does not justify a misuse of power within the nurse-[patient] relationship.

32. The TNCR Standard provides that financial abuse includes soliciting gifts from a patient, and using influence, pressure or coercion to obtain the patient's money or property.

### **ADMISSIONS OF PROFESSIONAL MISCONDUCT**

33. The Member admits that she committed the acts of professional misconduct as alleged in paragraphs 1-3 of the Notice of Hearing, and in particular, that she contravened a standard of practice of the profession, abused a patient, and that she misappropriated property from a patient, as described in paragraphs 8-23.
34. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 4 of the Notice of Hearing, and in particular, that her conduct was disgraceful, dishonourable and unprofessional, as described in paragraphs 8-23.

### **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 1(a), (b), (c), (d), (e), (f), (g), 2(a), (b), (c), (d), (e), (f), (g), 3(a), (b), 4(a), (b), (c), (d), (e), (f) and (g) of the Notice of Hearing. As to allegations 2(a), (b), (c), (d), (e), (f), (g), the Panel finds that the Member verbally, physically and emotionally abused [the Patient]. As to allegations 4(a), (b), (c), (d), (e), (f) and (g), the Panel finds that the Member engaged in conduct that would reasonably be considered by members to be disgraceful, dishonourable, and unprofessional.

### **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 #1(a) in the Notice of Hearing is supported by paragraphs 8, 9 and 25 to 33 in the Agreed Statement of Facts. On December 4, 2018, the Member went into the Patient's room at the facility at approximately 0500 hours to administer a scheduled medication. Prior to administering the medication, the Member asked the Patient to give her \$3,000. The Member told the Patient that she needed the money to pay first and last month's rent.

Allegation #1(b) in the Notice of Hearing is supported by paragraphs 11, 12, 13, 14, 15 and 25 to 33 in the Agreed Statement of Facts. The Patient felt pressured to provide the Member with the funds that she had requested in order to receive her scheduled medication. The Member had removed the Patient's personal chequebook from the Patient's purse and presented the Patient with a blank cheque for her to sign. Once the Member had accepted the Patient's signed \$1,500 cheque, the Member administered the scheduled medication.

Allegation #1(c) in the Notice of Hearing is supported by paragraphs 14, 15 and 25 to 33 in the Agreed Statement of Facts. On December 4, 2018, the Patient wrote and signed a \$1,500 cheque made payable to the Member. The Member accepted the cheque from the Patient.

Allegation #1(d) in the Notice of Hearing is supported by paragraphs 16 and 25 to 33 in the Agreed Statement of Facts. On December 31, 2018, the Member cashed the \$1,500 cheque that was received from the Patient.

Allegation #1(e) in the Notice of Hearing is supported by paragraphs 17, 18 and 25 to 33 in the Agreed Statement of Facts. On February 22, 2019, the Member went into the Patient's room at the facility at approximately 0500 hours to administer a scheduled medication. Prior to administering the medication, the Member asked the patient for \$100 to buy groceries.

Allegation #1(f) in the Notice of Hearing is supported by paragraphs 19, 20, 21, 22 and 25 to 33 in the Agreed Statement of Facts. The Patient felt pressured to provide the Member with the funds that she had requested in order to receive her scheduled medication. The Patient initially refused to give the Member \$100. She was unsure what kind of treatment she would receive from the Member if she declined to give the Member the funds. The Member went into the Patient's purse or wallet and removed two \$50 bills. The Member administered the Patient's scheduled medication and left the room.

Allegation #1(g) in the Notice of Hearing is supported by paragraph 18, 21 and 25 to 33 in the Agreed Statement of Facts. The Member asked the Patient for \$100 to buy groceries. The Member went into the Patient's purse or wallet and removed two \$50 bills.

Allegation #2(a) in the Notice of Hearing is supported by paragraphs 8, 9, 28, 31, 32 and 33 in the Agreed Statement of Facts. On December 4, 2018, the Member went into the Patient's room at the facility at approximately 0500 hours to administer a scheduled medication. Prior to administering the medication, the Member asked the Patient to give her \$3,000. The Member told the Patient that she needed the money to pay first and last month's rent. When the Patient asked to think about the Member's financial request, the Member replied "we don't have time to think about". The Member verbally, physically and emotionally abused the Patient by pressuring the Patient through her verbal language, withholding the medication and misusing the power within the therapeutic nurse-client relationship to solicit funds respectively.

Allegation #2(b) in the Notice of Hearing is supported by paragraphs 11, 12, 13, 14, 15, 28, 31, 32 and 33 in the Agreed Statement of Facts. The Patient felt pressured to provide the Member with the funds that she had requested in order to receive her scheduled medication. The Member had removed the Patient's personal chequebook from the Patient's purse and presented the Patient with a blank cheque for her to sign. Once the Member had accepted the Patient's signed \$1,500 cheque, the Member administered the scheduled medication. The Member abused the Patient verbally, physically and emotionally by pressuring the Patient through her verbal language, withholding the medication and misusing the power she had over the Patient's medications to personally benefit financially respectively.

Allegation #2(c) in the Notice of Hearing is supported by paragraphs 14, 15, 28, 31, 32 and 33 in the Agreed Statement of Facts. On December 4, 2018, the Patient wrote and signed a \$1,500 cheque made



payable to the Member. The Member accepted the cheque from the Patient. The Member administered the Patient's medication only after the Patient provided the Member with the cheque. The Member verbally abused the Patient by using coercion to obtain the Patient's money. The Member abused the Patient physically by withholding the Patient's medications until the Patient provided the Member with the signed cheque. The Member emotionally abused the Patient as the Patient felt apprehensive about her treatment from the Member if the Patient declined to give the Member \$100.

Allegation #2(d) in the Notice of Hearing is supported by paragraphs 16, 28, 30, 31 and 32 in the Agreed Statement of Facts. On December 31, 2018, the Member cashed the \$1,500 cheque that was received from the Patient. The Member verbally, physically and emotionally abused the Patient by misusing the power within the therapeutic nurse-client relationship to obtain the Patient's money.

Allegation #2(e) in the Notice of Hearing is supported by paragraphs 17, 18, 28, 30, 31, 32 and 33 in the Agreed Statement of Facts. On February 22, 2019, the Member went into the Patient's room at the facility at approximately 0500 hours to administer a scheduled medication. Prior to administering the medication, the Member asked the Patient for \$100 to buy groceries. The Member verbally, physically and emotionally abused the Patient by misusing the power within the therapeutic nurse-client relationship to obtain the Patient's money.

Allegation #2(f) in the Notice of Hearing is supported by paragraphs 19, 20, 21, 22, 28, 30, 31, 32 and 33 in the Agreed Statement of Facts. The Patient felt pressured to provide the Member with the funds that she had requested in order to receive her scheduled medication. The Patient initially refused to give the Member \$100. She was unsure what kind of treatment she would receive from the Member if she declined to give the Member the funds. The Member went into the Patient's purse or wallet and removed two \$50 bills. The Member administered the Patient's scheduled medication and left the room. The Member verbally abused the Patient by pressuring the Patient to obtain the Patient's money. The Member physically abused the Patient by withholding the Patient's medication until the Patient provided the Member with the requested funds. The Member emotionally abused the Patient as the Patient felt unsure about what kind of treatment she would receive from the Member if the Patient declined to give the Member \$100.

Allegation #2(g) in the Notice of Hearing is supported by paragraphs 18, 21, 28, 30, 31, 32 and 33 in the Agreed Statement of Facts. The Member asked the Patient for \$100 to buy groceries. The Member went into the Patient's purse or wallet and removed two \$50 bills. The Member verbally, physically and emotionally abused the Patient by engaging in a financial transaction unrelated to care which resulted in a monetary loss for the Patient.

Allegation #3(a) in the Notice of Hearing is supported by paragraph 16. On December 31, 2018, the Member misappropriated the Patient's property when she cashed the \$1,500 cheque that she received from the Patient.

Allegation #3(b) in the Notice of Hearing is supported by paragraphs 18 and 21. The Member asked the Patient for \$100 to buy groceries. The Member misappropriated the Patient's property when she removed two \$50 bills from the Patient's purse or wallet.

With respect to allegations # 4(a), (b), (c), (d), (e), (f) and (g) in the Notice of Hearing, the Panel finds that the Member's conduct was unprofessional as it 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 the solicitation and acceptance of funds from a vulnerable Patient on two separate occasions. The Member knew or ought to have known that her conduct was unacceptable and fell well below the standards of a professional.

Finally, the Panel finds that the Member's conduct was disgraceful as it shames the Member and by extension the profession. The conduct of implying that medication would be withheld if a Patient did not provide the requested funds casts serious doubt on the Member's moral fitness and inherent ability to discharge the higher obligations the public expects professionals to meet.

### **Penalty**

College Counsel 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 six months. This suspension shall take effect from the date the Member obtains an active certificate of registration in a practicing class and shall continue to run without interruption as long as the Member remains in a practicing 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 Regulatory Expert (the "Expert") at her own expense and within six months from the date the Member obtains an active certificate of registration in a practicing class. 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 12 months from the date the Member obtains an active certificate of registration in a practicing class. 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 CNO publications and completes the associated Reflective Questionnaires, online learning modules, decision tools and online participation forms (where applicable):
  1. *Code of Conduct*,
  2. *Professional Standards*, and
  3. *Therapeutic Nurse-Client Relationship*;
- iv. Before the first meeting, the Member reviews and completes the CNO's self-directed learning package, *One is One Too Many*, at her own expense, including the self-directed *Nurses' Workbook*;
- v. At least seven days before the first meeting, the Member provides the Expert with a copy of the completed Reflective Questionnaires, online participation forms and Nurses' Workbook;
- 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 patients, 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 her 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 her certificate of registration;

- b) For a period of 18 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.
  - c) The Member shall not practice independently in the community for a period of 18 months from the date the Member returns to the practice of nursing.
4. All documents delivered by the Member to the CNO, 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 aggravating factors in this case were that the Member abused the Patient on two occasions which were 2 months apart. The events were remarkably similar as the Member asked the Patient for funds early in the morning prior to medication administration. The time and manner of the request made the Patient feel as if there was no choice but to give the Member the funds in order to receive care. The Patient was apprehensive that she would not receive care if she did not immediately provide the funds. In both cases, the Patient provided the funds to the Member and the Member accepted the funds which is an egregious breach of trust and disregard for the Member's obligations to the Patient.

The mitigating factors in this case were that the Member has admitted the allegations and has no prior discipline history with the College.

The proposed penalty provides for general and specific deterrence through a suspension and a reprimand which will send a signal to the Member and all nurses that there are serious consequences for this behaviour. The public is protected in that similar conduct will not be repeated.

The proposed penalty provides for remediation and rehabilitation through proposed Regulatory Expert meeting requirements. This will help to deepen the Member's understanding of her misconduct and help ensure the misconduct will not be repeated. The public is protected as this process will give the Member additional insight into her practice.

Overall, the public is protected through employer notification requirements and the Member's restriction to practice independently for a period of 18 months.

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

*CNO v. Steen* (Discipline Committee, 2018). This matter proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. The case involved an RPN accepting a \$50,000 gift from a patient while providing homecare. Subsequent to this, the Member requested two \$10,000 loans from the patient. The member further asked for a \$100,000 loan from the patient, however, the patient never provided the \$100,000 loan to the member. The penalty included an oral reprimand and revocation. The facts of this case are quite different in that the amounts of the funds are quite higher. This demonstrates how discipline panels view financial transactions with patients that are unrelated to care. The member used his position of power for his personal financial gain.

*CNO v. Visca* (Discipline Committee, 2017). This matter proceeded on a contested basis as the member did not participate. The member misappropriated \$20-30 in cash from a patient. The member was not providing care to the patient at the time, however, the patient was in the facility. The member had previously provided nursing care to the patient. The member entered the patient's home when the member was not scheduled to attend. The member was criminally charged and found guilty of theft. The penalty included a 5-month suspension of the member's certificate of registration. This case only involved one occurrence of misappropriation of funds. The quantum of funds was smaller in this case.

*CNO v. Owusu-Afriyie* (Discipline Committee, 2020). There is currently no decision and reasons as this is a recent matter that came before the Discipline Committee. The Discipline Committee's order is available. This case proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. The member worked as a homecare PSW. The member provided homecare to an elderly man with Parkinson's Disease. The member admitted to writing and cashing three cheques payable to herself using the patient's cheques and signature stamp. The cheques totalled approximately \$2,100. The member accepted the cheques as gifts from the patient. The penalty order included an oral reprimand and a 5-month suspension. There were similar terms, limitations and conditions. There was no finding of abuse in this case.

The Member had no submissions.

## **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 six months. This suspension shall take effect from the date the Member obtains an active certificate of registration in a practicing class and shall continue to run without interruption as long as the Member remains in a practicing 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 Regulatory Expert (the "Expert") at her own expense and within six months from the date the Member obtains an active certificate of registration in a practicing class. 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 12 months from the date the Member obtains an active certificate of registration in a practicing class. 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 CNO publications and completes the associated Reflective Questionnaires, online learning modules, decision tools and online participation forms (where applicable):
      1. *Code of Conduct*,
      2. *Professional Standards*, and
      3. *Therapeutic Nurse-Client Relationship*;

- iv. Before the first meeting, the Member reviews and completes the CNO's self-directed learning package, *One is One Too Many*, at her own expense, including the self-directed *Nurses' Workbook*;
  - v. At least seven days before the first meeting, the Member provides the Expert with a copy of the completed Reflective Questionnaires, online participation forms and Nurses' Workbook;
  - 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 patients, 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 her 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 her certificate of registration;
- b) For a period of 18 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.
- c) The Member shall not practice independently in the community for a period of 18 months from the date the Member returns to the practice of nursing.
4. All documents delivered by the Member to the CNO, 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. The Panel finds that the penalty satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection. Specific and general deterrence is achieved through the suspension and oral reprimand. Rehabilitation and remediation is satisfied with the proposed meetings with a Regulatory Expert. The public is protected through employer notification requirements and the restriction on practicing independently.

The penalty is in line with what has been ordered in previous cases.

I, Heather Stevanka, RN, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel.