

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

**PANEL:**

Tanya Dion, RN	Chairperson
Dawn Cutler, RN	Member
Catherine Egerton	Public Member
Carly Gilchrist, RPN	Member
Margaret Tuomi	Public Member

**BETWEEN:**

COLLEGE OF NURSES OF ONTARIO	)	<u>MEGAN SHORTREED</u> for
	)	College of Nurses of Ontario
- and -	)	
	)	
ANNE MARIE SEYMOUR	)	<u>ROBERT STEPHENSON</u> for
Reg. No. 9002577	)	Anne Marie Seymour
	)	
	)	
	)	<u>JUSTIN SAFAYENI</u>
	)	Independent Legal Counsel
	)	
	)	
	)	Heard: <u>DECEMBER 12, 2017</u>

**DECISION AND REASONS**

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) on December 12, 2017 at the College of Nurses of Ontario (“the College”) in Toronto. The Member was present and was represented by counsel.

**Publication Ban**

At the request of the College and on being advised that the Member did not oppose the request, the Panel made an order banning the publication and broadcasting of the identity of the Client, and any information that could disclose the Client’s identity, including any reference to the Client’s name contained in the allegations in the Notice of Hearing and in any exhibit filed in the course of the hearing, pursuant to s.45(3) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*.

## **The Allegations**

The allegations against Anne Marie Seymour (the “Member”) as stated in the Notice of Hearing dated November 15, 2017 are as follows.

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 Nurse at Orillia Soldiers’ Memorial Hospital in Orillia, Ontario (the “Hospital”), you contravened a standard or practice of the profession or failed to meet the standards of practice of the profession as follows:
  - a. between November 2014 and February 2015, you failed to maintain the boundaries of the therapeutic nurse-client relationship in respect of client [the Client]; and/or
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(37) of *Ontario Regulation 799/93*, in that while employed as a Registered Nurse at the Hospital, 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. between November 2014 and February 2015, you failed to maintain the boundaries of the therapeutic nurse-client relationship in respect of client [the Client]

## **Member’s Plea**

The Member admitted the allegations set out in paragraphs #1 and #2 in the Notice of Hearing. With respect to the allegations at paragraph #2, the Member admitted that the conduct would reasonably be regarded by members of the profession as unprofessional. 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. Anne Marie Seymour (the “Member”) obtained a diploma in nursing from Fanshawe College in 1989.
2. The Member registered with the College of Nurses of Ontario (the “College”) as a Registered Nurse (“RN”) on August 9, 1989.

3. The Member has been employed at Orillia Soldier's Memorial Hospital (the "Hospital") since December 7, 2000.
4. The Member works at the Hospital as a full-time staff nurse in the Diabetes Education Centre ("DEC"), which is an outpatient clinic. As a Certified Diabetes Educator, the Member consults clients about monitoring their blood glucose levels, diet, nutrition and lifestyle.

### **PRIOR HISTORY**

5. The Member has no prior disciplinary findings with the College.

### **THE CLIENT**

6. [the Client] (the "Client") was 53 years old at the time of the incidents.
7. The Client was diagnosed with diabetes in April 2011 and was referred to the DEC.
8. The Member provided care to the Client at the DEC on four occasions. She first counselled the Client on November 7, 2013. She then saw him once in May 2014 and once in November 2014. Their last clinical encounter was February 12, 2015.
9. The Client discharged himself from the DEC on February 23, 2015.

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

10. On May 8, 2015, the Hospital was informed by a nurse at the Hospital ("[Nurse #1]") that her husband, the Client, had entered into a relationship with the Member. [Nurse #1] advised that she learned about the relationship on February 22, 2015 when the Client asked her for a divorce. He told her he was having "an affair of the heart" with the Member.

### **November 2014**

11. In November 2014, the Client attended an appointment at the DEC with the Member. At the time, his clinical condition had worsened. According to the Client, the Member was very encouraging during the visit, which motivated the Client to take better care of himself and prioritize his health.
12. As the Client was leaving the appointment, the Member shook his hand and kissed him on the cheek. The Member and the Client both say it was not a sexual or romantic kiss, but simply a greeting. The Client would testify that he told his then wife and a couple of friends of this kiss the day it happened and it was part of his motivation to get better.

### **January–February 2015**

13. The relationship between the Client and the Member moved from professional to personal in January 2015. The Client called the Member and invited her to meet him after work in a non-professional capacity, and she agreed. The two met in his car to talk. According to the Client, there was no physical contact or romantic feelings during this meeting.

14. The relationship between the Member and the Client quickly became increasingly personal and romantic after the first meeting in January. The Member and the Client frequently met outside of clinic hours, spoke on the phone, and exchanged text messages and emails. The Client would testify that he and the Member never discussed anything clinical nor was any treatment or other care provided.
15. On January 29, 2015 the Client emailed the Member in which email he professed his love for the Member and asked her to marry him. He indicated that they had both considered what it would be like to be married to each other “within a week of this incredible relationship”. He described the Member as “compassionate, loving, caring, extremely sensual” and “erotic”.
16. The Client emailed the Member again on February 16, 2015 speaking about his love for her. The language was romantic and sexual in nature. If the Client were to testify, he would say his intent was to be romantic only.
17. If the Member and the Client were to testify, they would say that they never engaged in physical contact of a sexual nature prior to the Client discharging himself from the Member’s care.
18. By February 20, 2015, the Client was emailing the Member real estate information about potential properties to buy and rent, so they could move in together.
19. In meetings with the Hospital, the Member openly and readily admitted having a personal relationship with the Client before he discharged himself from the DEC on February 23, 2015. If she were to testify she would state that she believed by attempting to separate her professional advice from her personal relationship she was complying with the College’s standards. However, she now acknowledges that by carrying on a personal relationship with a current Client, she violated the College’s standard on the *Therapeutic Nurse-Client Relationship*.
20. The Hospital did not terminate the Member’s employment as a result of her relationship with the Client. She was suspended for five days without pay and given a last chance warning. She was also required to review College standards, including the *Therapeutic Nurse-Client Relationship*, and to establish a learning plan, which she successfully completed.
21. In November 2016, the Member and the Client were married.

## **COLLEGE STANDARDS**

22. The College’s *Therapeutic Nurse-Client Relationship* standard (the “TNCR”) places the responsibility for establishing and maintaining the limits and boundaries in the therapeutic nurse-client relationship on the nurse.
23. The TNCR states:

[c]rossing a boundary means that the care provider is misusing the power in the relationship to meet his/her personal needs, rather than the needs of the client, or behaving in an unprofessional manner with the client.

24. The TNCR 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.

### **ADMISSIONS OF PROFESSIONAL MISCONDUCT**

25. The Member admits that she breached the *Therapeutic Nurse-Client Relationship* standard in that she failed to maintain the boundaries of the nurse-client relationship with client [the Client] when she engaged in a personal and romantic relationship with [the Client]. while he was a patient.
26. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 1(a) of the Notice of Hearing, in that she contravened a standard of practice of the profession or failed to meet the standards of practice of the profession when she failed to maintain the boundaries of the therapeutic nurse-client relationship with client [the Client], as described in paragraphs 10 to 23 above.
27. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 2(a) of the Notice of Hearing, by engaging in conduct relevant to the practice of nursing that, having regard to all the circumstances, would reasonably be regarded by members as unprofessional, when she failed to maintain the boundaries of the therapeutic nurse-client relationship with client [the Client], as described in paragraphs 10 to 23 above.

### **Decision**

The Panel finds that the Member committed acts of professional misconduct as alleged in paragraphs #1 and #2 of the Notice of Hearing, and as admitted by the Member. As to allegation # 2, the Panel finds that the Member engaged in conduct that would reasonably be regarded by members to be 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. The Panel also considered the advice of Independent Legal Counsel, that the allegations should be supported by the Agreed Statement of Facts and as such the Notice of Hearing was reviewed carefully.

Allegation #1 in the Notice of Hearing is supported by paragraphs 10, 12, 13, 14, 19, 25 and 26 in the Agreed Statement of Facts. The Member maintained a personal relationship with the Client before he discharged himself from the DEC on February 23, 2015. The Member admitted this to her employer. While at the time, the Member believed that by attempting to separate her professional advice from her personal relationship she was complying with the College's standards, she now understands that her relationship violated the College's standards with respect to the *Therapeutic Nurse-Client Relationship*. Simply keeping the personal relationship outside of the clinical relationship does not satisfy the requirements of the standard. The Member should not have engaged in any sort of personal relationship with a Client for whom she was actively providing care.

Allegation #2 in the Notice of Hearing is supported by paragraphs 10, 12, 13, 14, 19 and 27 in the Agreed Statement of Facts. With respect to this allegation, the Panel finds that the Member's conduct was unprofessional. By maintaining a personal relationship with the Client, the Member demonstrated a persistent disregard for her professional obligations.

### **Penalty**

Counsel for the College and the Member advised the Panel that a Joint Submission on Order had 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.
2. Directing the Executive Director to suspend the Member's certificate of registration for three 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*,
  - 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 this Order becomes final, 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 he agreed with those submissions.

The parties agreed that the mitigating factors in this case were as follows: the Member does not have a prior history with the College. She has been working as a Registered Nurse for 28 years and when confronted by her employer and the College she was honest and forthcoming. The Member waived her right of appeal and was prepared to accept the Joint Submission on Order.

There were two main aggravating factors in this case. First, the Member's professional therapeutic relationship with the Client quickly advanced to a romantic relationship, and second, it was the Client – and not the Member - who decided to discharge himself from the Member's care in order for their relationship to continue.

College Counsel stated that the Joint Submission on Order was the product of lengthy negotiations. The agreement reached is reasonable and in the public interest, it meets the goals of penalty by striking a balance. The suspension and oral reprimand meet the goals of specific and general deterrence. The penalty as a whole sends a strong message to the profession that these actions will not be tolerated. Remediation and rehabilitation are attained through the meeting with the Nursing Expert, as well as through the employer notification provision. The College submitted that the penalty as a whole makes it clear that public protection is paramount and that the conduct at issue here is simply not acceptable for the profession.

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

*College of Nurses v. Margaret A. Blaney (2016)*. In this case, the member failed to maintain professional therapeutic boundaries when she entered into a personal and romantic relationship with a client. The member also provided the client with prohibited items that put the client, other clients, and facility staff at risk. The panel found the member's conduct was unprofessional and dishonourable. The



penalty was an oral reprimand, four months suspension, two meetings with a nursing expert and employer notification for a period of 12 months.

*College of Nurses v. Tanis Baker (2012)*. In this case, the member engaged in an intimate personal relationship with the husband of a client, while providing care to the client. The member failed to meet the standards of the profession and abused a client emotionally. The panel found that the member's conduct was unprofessional and dishonourable. The penalty was an oral reprimand, three months suspension, two meetings with a nursing expert and employer notification for a period of 12 months.

Independent legal counsel's advice to the Panel was that Joint Submissions on Order should be accepted unless to do so would bring the administration of this process into disrepute or would otherwise be contrary to the public interest. Counsel also confirmed that the Panel should take comfort in the previous decisions provided that reveal the proposed penalty falls within a reasonable range.

### **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 three 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:
      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,*

- 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 this Order becomes final, 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.

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

The penalty provides protection for the public. In particular, it provides a strong message to the profession that nurses must practice according to standards regardless of their practice setting and that at all times appropriate boundaries in the nurse/client relationship must be maintained. The public is protected when nurses practice according to standards and are mindful that their relationship with clients is a professional relationship for therapeutic purposes. Nurses must not use these relationships for personal or romantic needs.

I, Tanya Dion, 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.

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Chairperson

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Date