

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

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| PANEL: | Mary MacNeil, RN | Chairperson |
| | Sylvia Douglas | Public Member |
| | Kimberly Wagg, RPN | Member |
| | Ingrid Wiltshire-Stoby, NP | Member |

BETWEEN:

| | | |
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| COLLEGE OF NURSES OF ONTARIO |) | <u>DENISE COONEY</u> for |
| |) | College of Nurses of Ontario |
| - and - |) | |
| |) | |
| NORIE ANLACAN |) | <u>NO REPRESENTATION</u> for |
| Registration No. I109474 |) | Norie Anlacan |
| |) | |
| |) | <u>PATRICIA HARPER</u> |
| |) | Independent Legal Counsel |
| |) | |
| |) | Heard: June 16, 2023 |

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 June 16, 2023, via videoconference.

The Allegations

The allegations against Norie Anlacan (the “Member”) as stated in the Notice of Hearing dated February 13, 2023 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 working as a Registered Practical Nurse at Baycrest Hospital in Toronto, Ontario (the “Facility”), you contravened a standard of practice of the profession or failed to meet the standards of practice of the profession, and in particular, in or around 2011 to 2018, you submitted and/or accepted payment for false claims under the Facility’s employee group benefit plan (the “Benefit Plan”).

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 working as a Registered Practical Nurse at the Facility, you misappropriated property from a client or workplace, and in particular, in or around 2011 to 2018, you submitted and/or accepted payment for false claims under the Benefit Plan.
3. You 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(14) of *Ontario Regulation 799/93*, in that while working as a Registered Practical Nurse at the Facility, you falsified a record relating to your practice, and in particular, in or around 2011 to 2018, you submitted and/or accepted payment for false claims under the Benefit Plan.
4. You 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(15) of *Ontario Regulation 799/93*, in that while working as a Registered Practical Nurse at the Facility, you signed or issued, in your professional capacity, a document that you knew or ought to have known contained a false or misleading statement, and in particular, in or around 2011 to 2018, you submitted and/or accepted payment for false claims under the Benefit Plan.
5. 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 working 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, and in particular, in or around 2011 to 2018, you submitted and/or accepted payment for false claims under the Benefit Plan.

Member's Plea

The Member admitted the allegations set out in paragraphs #1, #2, #3, #4 and #5 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 reads, unedited, as follows:

MEMBER

1. Norie Anlacan (the “Member”) registered with the College of Nurses of Ontario (“CNO”) as a Registered Practical Nurse (“RPN”) on June 25, 1999.
2. The Member was employed as an RPN at Baycrest Hospital located in Toronto, Ontario (the “Facility”) at the time of the incidents described below. The Member resigned her employment at the Facility in connection with the incidents described below.

BENEFIT PLAN

3. The Facility offers its employees a self-insured group insurance policy through which the Facility provides coverage to employees for extended health care, dental, and other insurance benefits (the “Benefit Plan”). Coughlin & Associates Ltd (“Coughlin”) administers the Benefit Plan on behalf of the Facility. The Facility, however, is the plan sponsor for the Benefit Plan, and therefore funds the cost of claims paid out to employees under the plan. Employees contribute to the cost of the Benefit Plan as set out in their employment agreement and/or collective agreement, based on their election for individual or family coverage.
4. To submit a benefit claim, members of the Benefit Plan would complete a medical expense claim form provided by Coughlin. The medical expense claim form requires certain information, including information on the plan member, any dependents, and the nature of the claim. The plan member must certify “that the information given is true, correct and complete to the best of [their] knowledge”.

INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT

5. From 2011 to 2018, the Member submitted various claims for medical services and products, some of which were false.
6. In January 2019, the Facility uncovered benefits irregularities and conducted an internal investigation. Through its investigation, the Facility identified a series of benefit claims submitted by the Member which the Facility deemed to be suspicious.
7. On January 22, 2019, the Member was interviewed by the Facility with respect to her claims. During this interview, the Member admitted to having been involved in a benefits fraud scheme and confirmed that claims she had made on her behalf and on behalf of her husband were also fraudulent.
8. The Member resigned their employment in connection with the Facility’s investigation. The Member did not pay restitution.
9. The Member admits that she submitted fraudulent benefit claims amounting to at least \$42,425. The false benefit claims included claims for items such as

physiotherapy, finger and back braces, orthotic shoes and insoles and compression stockings. In some cases, the Member did not receive any products, and in some cases either keep the reimbursement as cash or receive a credit for the service provider.

BENEFIT FRAUD CASES

10. To date, at least 80 benefit fraud cases involving substantially similar schemes as the one identified in this case, involving either cash or products not covered by the benefit plan, have been referred to the Discipline Committee. The dollar amounts of the claims involved range from under \$500 to over \$45,000.

CNO STANDARDS

Professional Standards

11. CNO's *Professional Standards* provides an overall framework for the practice of nursing and a link with other standards, guidelines and competencies developed by CNO. It includes seven broad standard statements pertaining to accountability, continuing competence, ethics, knowledge, knowledge application, leadership and relationships.
12. CNO's *Professional Standards* provides, in relation to the accountability standard, that nurses are accountable to the public and responsible for ensuring their practice and conduct meets the legislative requirements and the standards of the profession. Nurses are responsible for their actions and the consequences of those actions as well as for conducting themselves in ways that promote respect for the profession. Nurses demonstrate this standard by actions such as ensuring their practice is consistent with CNO's standards of practice and guidelines as well as legislation.
13. CNO's *Professional Standards* provides, in relation to the leadership standard, that leadership requires self-knowledge (understanding one's beliefs and values and being aware of how one's behaviour affects others), respect, trust, integrity, shared vision, learning, participation, good communication techniques and the ability to be a change facilitator. The leadership expectation is not limited to nurses in formal leadership positions and all nurses, regardless of their position, have opportunities for leadership. Nurses demonstrate this standard by actions such as role-modelling professional values, beliefs and attributes.

Ethics

14. CNO's *Ethics* Standard describes ethical values that are important to the nursing profession in Ontario including patient well-being, patient choice, privacy and confidentiality, respect for life, maintaining commitments, truthfulness and fairness.

15. CNO's *Ethics* Standard provides, in relation to maintaining commitments, that nurses have a commitment to the nursing profession and being a member of the profession brings with it the respect and trust of the public. To continue to deserve this respect, nurses have a duty to uphold the standards of the profession, conduct themselves in a manner that reflects well on the profession, and to participate in and promote the growth of the profession.
16. CNO's *Ethics* Standard also provides, in relation to truthfulness, that truthfulness means speaking and acting without intending to deceive.
17. The Member admits and acknowledges that she contravened CNO's *Professional Standards* and *Ethics* Standard.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

18. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 1 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, as described in paragraphs 5 to 9 and 11 to 17 above.
19. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 2 of the Notice of Hearing in that she misappropriated property from a workplace, as described in paragraphs 5 to 9 above.
20. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 3 of the Notice of Hearing in that she falsified a record relating to her practice, as described in paragraphs 5 to 9 above.
21. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 4 of the Notice of Hearing in that she signed or issued, in her professional capacity, a document that she knew or ought to have known contained a false or misleading statement, as described in paragraphs 5 to 9 above.
22. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 5 of the Notice of Hearing, and in particular her conduct was dishonourable and unprofessional, as described in paragraphs 5 to 9 and 11 to 17 above.

Submission on liability were made by College Counsel

College Counsel asked the Panel to accept the Agreed Statement of Facts, as well as the Member's admissions to all the allegations as set out in paragraphs 18-22 of the Agreed Statement of Facts and, on the basis of those facts and admissions, make findings of professional misconduct with respect to the allegations in the Notice of Hearing. College Counsel submitted that the Panel has taken the Member's plea, which, as confirmed by the

verbal and written plea inquiry, was voluntary and informed. College Counsel submitted that based on the Agreed Statement of Facts, which specifically describes the facts in relation to the allegations, the Panel has enough evidence to find that the Member committed professional misconduct as set out in all of the allegations in the Notice of Hearing.

With regard to allegation #1, College Counsel submitted that the Panel was provided evidence of the relevant College standards, namely the *Professional Standards* and the *Ethics Standard* that the Member breached. The Member also admitted to breaching the standards. This evidence provides a basis on which to make a finding for allegation #1.

With regard to allegation #5, paragraph 22 in the Agreed Statement of Facts indicates that the Member agreed that her conduct was relevant to the practice of nursing and would be characterized as dishonourable and unprofessional. College Counsel submitted that the conduct at issue is that the Member submitted improper insurance claims to Baycrest Hospital (the “Facility”) employee group benefit plan (the “Benefit Plan”). The claims were submitted between 2011 and 2018 and totalled at least \$42,425. The Member’s conduct is relevant to the practice of nursing as she was only able to access the Benefit Plan by virtue of her employment at the Facility. Additionally, the false insurance claims were submitted to the Facility’s Benefit Plan.

College Counsel submitted that the Agreed Statement of Facts contains a summary of the relevant professional obligations required by nurses to act with honesty and integrity. A nurse’s submission of false insurance claims and false documentation to their employer constitutes a persistent disregard to act with honesty and integrity and forms the basis of a finding of unprofessional conduct. The Member’s conduct was dishonourable in that it involved dishonesty and deceit for her personal gain and was carried out for 8 years, which was long enough for the Member to stop and take accountability. Instead, the Member failed to act with the honesty and integrity the public expects of nurses and thereby brought shame to the nursing profession.

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, #2, #3, #4 and #5 of the Notice of Hearing. As to allegation #5, the Panel finds that the Member engaged in conduct that would reasonably be regarded by members of the profession to be unprofessional and dishonourable.

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 in the Notice of Hearing is supported by paragraphs 4-9 and 11-18 in the Agreed Statement of Facts. The Member admitted to submitting false claims through the Facility's Benefit Plan from 2011 to 2018 for items such as physiotherapy, finger and back braces, orthotic shoes and insoles and compression stockings and to receiving at least \$42,425.00 in relation to those false claims. In some cases, the Member did not receive any products, and either kept the reimbursement as cash or received a credit for the service provider. The College's *Ethics* Standard provides that ethical values are important to the nursing profession and part of these values include truthfulness. The Member purposely deceived the Benefit Plan the Facility provided for her and her family when she submitted false benefit claims. The Member showed little integrity and contravened the *Professional Standards* when she purposely submitted false claims for her own benefit. Being trustworthy is an essential component of a nurse's professional integrity. The Member contravened the *Ethics* Standard and the *Professional Standards* when she falsified documentation and received reimbursement for products that were not provided.

Allegation #2 in the Notice of Hearing is supported by paragraphs 4-9 and 19 in the Agreed Statement of Facts. The Member admitted to misappropriating property from the Facility when she submitted false claims through the Facility's Benefit Plan and received money or credit for those false claims. Receiving money or credit with respect to false benefit claims constitutes misappropriation of property.

Allegations #3 and #4 in the Notice of Hearing are supported by paragraphs 4-9 and 20-21 in the Agreed Statement of Facts. The Member admitted to falsifying a record relating to her practice and to signing or issuing, in her professional capacity, a document that she knew or ought to have known contained a false or misleading statement. When the Member signed the medical expense claim form that required her to certify "that the information given is true, correct and complete to the best of [their] knowledge", she knew or ought to have known that she was signing a document that contained a false or misleading statement and that it was a false claim under the Facility's Benefit Plan. The Member, as a Registered Practical Nurse ("RPN") employed at the Facility, had access to the Benefit Plan by virtue of her employment as a nursing professional and so her actions were related to her practice as a nurse. Accordingly, the facts support the allegations that the Member falsified a record relating to her practice and signed or issued, in her professional capacity, a document that she knew contained a false or misleading statement and did so in the context of her employment as an RPN at the Facility.

Allegation #5 in the Notice of Hearing is supported by paragraphs 4-9, 11-17 and 22 in the Agreed Statement of Facts. The Panel finds that the Member's conduct in submitting false benefit claims was clearly relevant to the practice of nursing as the Member had access to the Benefit Plan by virtue of her nursing employment. It was unprofessional as it demonstrated a serious and persistent disregard for her professional obligations as set out in the College's *Ethics* Standard and the *Professional Standards*.

The Panel also finds that the Member's conduct was dishonourable. It demonstrated an element of dishonesty and deceit when she submitted false claims to the Facility's Benefit Plan over a long period of time. The Member knew or ought to have known that her conduct was unacceptable and fell below the standards of a professional.

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.

Penalty Submissions

Submissions were made by College Counsel.

College Counsel submitted that the Joint Submission on Order also provides in Appendix "A" an undertaking and agreement by the Member for the Member's permanent resignation as a member of the College, effective June 13, 2023 (the "Undertaking"). Pursuant to this Undertaking, the Member undertakes, acknowledges and agrees to:

- a) Permanently resign as a member of the College, effective from the date that the Order made by the Discipline Committee in accordance with the Joint Submission on Order becomes final;
- b) Not apply for membership with the College as a Registered Nurse or Registered Practical Nurse at any time in the future;
- c) Agree that the public portion of the College's Register will indefinitely reflect that the Member entered into an Undertaking with the Executive Director to permanently resign as a member of the College as part of an agreed resolution of allegations of professional misconduct, in addition to any other information that is required to be posted;
- d) No longer have a right to the issuance or reinstatement of a Certificate of Registration from the College;
- e) No longer have a right to use the title "Nurse", "Registered Nurse", "Registered Practical Nurse", "RN", "RPN" or a variation, an abbreviation or an equivalent in another language;

- f) No longer have a right to hold herself out as a Nurse, Registered Nurse, Registered Practical Nurse or as a person who is qualified to practise in Ontario as a Nurse, Registered Nurse or Registered Practical Nurse;
- g) No longer have a right to engage in the practice of nursing in any capacity; and
- h) Agree 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.

College Counsel further submitted that the aggravating factors in this case were:

- The Member admitted to submitting false benefit claims from 2011 to 2018 amounting to at least \$42,425.00;
- The Member's conduct was a serious and persistent demonstration of dishonesty and deceit and carried on for 8 years, which was long enough for the Member to have taken responsibility;
- The Member failed to act with integrity and honesty, bringing shame to the nursing profession;
- The Member took advantage of public hospital funds that came from the public purse for her own personal benefit; The Member ought to have known that this was improper conduct; and
- The Member abused her privilege of having access to a benefit plan when not all members of the College have this.

The mitigating factors in this case were:

- The Member took responsibility by entering into an Agreed Statement of Facts and a Joint Submission on Order with the College; and
- The Member has no prior discipline history with the College.

Specific deterrence is not essential in this case because the Member has already undertaken to permanently resign from the practice of nursing. In such circumstances, the penalty of an oral reprimand is sufficient.

General deterrence is achieved through the oral reprimand and the fact that the findings will be publicly posted indefinitely on the College's website. This sends a clear message to other members of the profession that there are serious consequences for this type of conduct.

Overall, the public is protected by the resignation of the Member's certificate of registration and the ability of the College to communicate this to any governing body that regulates nursing in Canada. Accordingly, the Panel does not need to impose further conditions in order to achieve protection of the public.

To date, there are over 80 similar cases. A strong signal needs to be conveyed that this form of dishonesty will not be tolerated.

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

CNO v. Zhang (Discipline Committee, 2022): This case proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. In this case, the member committed acts of professional misconduct when she submitted false benefit claims in the amount of \$5,420.00. The member did not make restitution. The penalty included an oral reprimand and the member signed an undertaking to permanently resign as a member of the College.

CNO v. Lereu (Discipline Committee, 2022): This case proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. In this case, the member committed acts of professional misconduct when she submitted false benefit claims over several years in the amount of approximately \$27,058.00. The Member did not make restitution. The penalty included an oral reprimand, a 5-month suspension of the member's certificate of registration, 2 meetings with a Regulatory Expert and 12 months of employer notification. The member was also required to pay a fine in the amount of \$1,000.00.

CNO v. Belcena (Discipline Committee, 2022): This case proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. In this case, the member committed acts of professional misconduct when she submitted false benefit claims over several years in the amount of \$34,667.45. The member made restitution. The penalty included an oral reprimand, a 5-month suspension of the member's certificate of registration, 2 meetings with a Regulatory Expert and 12 months of employer notification.

The *Lereu* and *Belcena* cases involved less than the amount in the case before this Panel. However, they demonstrate the kind of penalty that would have been appropriate in this case if the Member had not signed the Undertaking to permanently resign. Submissions were made by the Member.

The Member indicated that she agreed with the submissions of College Counsel and submitted that she was very sorry for what she had done.

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.

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. In the usual course, 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.

In this case, because the Member has undertaken to permanently resign, the oral reprimand is a sufficient penalty and no other specific deterrence is required.

Furthermore, because of the Member's resignation, it is not necessary to consider remediation and rehabilitation in determining the appropriate penalty.

General deterrence is also addressed as the Panel concluded that had the Member's situation been different and no Undertaking given, the Panel would have ordered a suspension, and terms, conditions and limitations on the Member's certificate of registration, along with the oral reprimand which would have been in line with previous penalties.

Finally, the penalty of a reprimand is appropriate because the public is already protected through the permanent resignation of the Member's certificate of registration and the Undertaking to never apply for registration as a nurse in Ontario again in the future.

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

I, Mary MacNeil, 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.