DISCIPLINE COMMITTEE
OF THE COLLEGE OF NURSES OF ONTARIO

PANEL:

Terry Holland, RPN	Chairperson
Sylvia Douglas	Public Member
Mary MacNeil, RN	Member
Natalie Montgomery	Public Member
Martin Sabourin, RN	Member

BETWEEN:

COLLEGE OF NURSES OF ONTARIO	)	MEGAN SHORTREED for
	)	College of Nurses of Ontario
- and -	)	
	)	
MICHELE KATHLEEN COOK	)	CHRISTOPHER BRYDEN for
Registration No. 8937609	)	Michele Kathleen Cook
	)	
	)	CHRISTOPHER WIRTH
	)	Independent Legal Counsel
	)	
	)	Heard: October 21, 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 October 21, 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 of the patient, or any information that could disclose the identity of the patient referred to orally or in any documents presented in the Discipline hearing of Michele Kathleen Cook.

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 of the patient, or any information that could disclose the identity of the patient referred to orally or in any documents presented in the Discipline hearing of Michele Kathleen Cook.

The Allegations

The allegations against Michele Kathleen Cook (the "Member") as stated in the Notice of Hearing dated September 8, 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 working as a Registered Nurse at the Clarke Institute of Psychiatry in Toronto, Ontario (the "Hospital"), you contravened a standard of practice of the profession or failed to meet the standards of practice of the profession, as follows:

    a. between April 1994 and April 1995, you failed to maintain the boundaries of the therapeutic nurse-client relationship in respect of [the Patient]; and/or

    b. in April 1994, you sexually abused [the Patient] by engaging in physical sexual relations and/or touching of a sexual nature, and/or behavior or remarks of a sexual nature with him; and/or

    c. in April 1994, you removed [the Patient]'s medical record from the Hospital, and permitted [the Patient] to review and redact the medical record.

2. You have committed an act of professional misconduct as provided by subsection 51(1) (b.1) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*, S.O. 1991, c. 32, as amended, in that while working as a Registered Nurse at the Hospital, you sexually abused [the Patient], and in particular, in April 1994, you engaged in physical sexual relations and/or touching of a sexual nature, and/or behavior or remarks of a sexual nature with him.

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(37) of *Ontario Regulation 799/93*, in that while working 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 April 1994 and April 1995, you failed to maintain the boundaries of the therapeutic nurse-client relationship in respect of [the Patient]; and/or

    b. in April 1994, you sexually abused patient M.R.[the Patient] by engaging in physical sexual relations and/or touching of a sexual nature, and/or behavior or remarks of a sexual nature with him; and/or

    c. in April 1994, you removed [the Patient]'s medical record from the Hospital, and permitted [the Patient] to review and redact the medical record.

Member's Plea

The Member admitted the allegations set out in paragraphs 1(a), 1(b), 1(c), 2, 3(a), 3(b) and 3(c) in the Notice of Hearing. The Panel received a written plea inquiry which was signed by the Member. The Panel also conducted an oral plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

Agreed Statement of Facts

College Counsel and the Member's Counsel 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. Michele Kathleen Cook (the "Member") obtained a baccalaureate degree in nursing from the University of Toronto in 1989 and a graduate degree in nursing from the University of Toronto in 2007.

2. The Member registered with the College of Nurses of Ontario ("CNO") as a Registered Nurse ("RN") on June 7, 1989. The Member resigned from CNO on June 27, 2018, following a lengthy career in nursing with no prior discipline history.

THE FACILITY

3. The Member was employed at the Clarke Institute of Psychiatry (the "Hospital") from July 1989 to March 1995. The Facility is presently known as the Centre for Addiction and Mental Health.

4. At the time of the incidents, the Member was employed in the Community Nursing Program (the "Program") at the Hospital.

5. The Program was designed to assist patients during the transition from the Hospital to home. Nurses working in the Program would meet with the patients and then, after discharge, would routinely follow up with patients to monitor their progress reintegrating into the community.

THE PATIENT

6. On March 23, 1994, [the Patient] (the "Patient") was admitted to the Hospital via the emergency department. The Patient presented with anxiety and psychotic behaviour. He had recently attempted suicide.

7. The Patient also had a history of alcoholism, depression and episodes of psychosis. During his admission in the Hospital, the Patient was diagnosed with bipolar affective disorder and post-traumatic stress disorder.

8. The Patient was an inpatient at the Hospital from March 23, 1994 until April 12, 1994, when he was discharged and entered the Program.

9. The Member was part of the Patient's health care team from April 11 or 12, 1994, until his discharge from the Program on April 28, 1994. The Member met with the Patient on seven occasions to provide nursing care. Her last charted progress note was on April 22, 1994, after which she completed his Discharge Summary on May 2, 1994. She was one of the nurses in the Patient's health care team responsible for overseeing his community transition and monitoring his health.

10. Following the Patient's discharge from the Program, the Member and the Patient began living together in a conjugal relationship beginning in July or August, 1994.

11. The Member and the Patient lived together as common law spouses for 16 years, until the relationship ended and they separated in February 2010.

INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT

Sexual Relationship with the Patient

12. The Member met with the Patient at his home on April 14, 1994 to conduct a detailed assessment of the Patient's health profile. She subsequently developed an individualized nursing care plan for the Patient and began implementing nursing interventions.

13. On April 17, 1994, the Member asked one of her colleagues in the Program to comment on the Patient's mental health and health status, for clinical purposes and because the Member admitted that she "had feelings of attraction" for the Patient.

14. During the course of the patient relationship, the Member and the Patient began a sexual and romantic relationship, which included touching of a sexual nature and behaviour and remarks of a sexual nature. The Member acknowledges that this conduct constituted sexual abuse under s. 1(3)(b) and (c) of the *Code*.

15. Within the first year after the termination of the patient relationship, the Member and Patient's sexual relationship continued and included sexual intercourse. The Member acknowledges that, together with her conduct during the patient relationship, this conduct constituted a breach of the accepted standards of practice respecting boundaries in the therapeutic nurse-client relationship.

16. If the Patient were to testify, he would state that his relationship with the Member significantly impacted his mental health by accentuating feelings of traumatization, distrust, rejection and reduced self-esteem and confidence. He would further say that he felt taken advantage of while he was in a vulnerable mental and physical state and that this trauma has had a devastating long-term impact on his mental, physical and emotional well-being.

17. If the Member were to testify, she would testify that she and the Patient remained in a relationship for sixteen years from 1994 to 2010, during which she emotionally and financially supported him. During this period, she was often the sole income earner for their family, and the predominant earner and financial contributor to their family. During these years, the Complainant was in school pursuing graduate degrees and did very well at school. The Member would testify that she and the Patient had no contact with one another between 2010 and 2017. Further, she would have disputed the Patient's testimony outlined in paragraph 16. The Member would also state that her relationship with the Patient did not impact the quality of the nursing care she provided. However, the Member admits that her conduct, both during the nurse-patient relationship, and between April 1994 and April 1995 was disgraceful, dishonourable and unprofessional.

Removal of the Patient's Medical Record from the Hospital

18. In April 1994, the Member removed the Patient's medical record without authorization from the Hospital and permitted the Patient to review and redact or remove portions of his medical record. Specifically, the Patient removed a portion of the health record because he believed it inaccurately suggested drug abuse.

THE PATIENT'S COMPLAINT TO CNO

19. On January 17, 2017, the Patient sent an email to the Member, stating in part, "You do owe me money and you do owe me an apology. […] I am asking you to pay me $125,000.00 as a combined compensation." The Patient also relayed that if the Member paid him the requested sum, she would "never hear from [him] again."

20. On January 22, 2017, the Member responded to the Patient's email with a cease and desist letter through counsel. The letter stated that the Patient was not to contact the Member in any capacity.

21. On January 25, 2017, the Patient responded to the Member's counsel. He stated, "Although, in my letter to [the Member], I asked for money, this was not an attempt at a 'money grab', but to make her pay for wrongs she had done to me. […] Also, [the Member] needs to contact her employer and the College of Nurses of Ontario and report what happened years ago."

22. On February 10, 2017, the Patient submitted a complaint to CNO. In his complaint to CNO, the Patient stated, "…the most important thing for me is not the money, but her apology."

23. The Member acknowledges that, given her admissions of professional misconduct, the Patient's complaint to CNO was substantiated. Moreover, the parties lead no evidence and take no position about whether the Patient was entitled to civil or family law damages at the time he wrote the above correspondence.

CNO STANDARDS

24. At the time of these events, the *Regulated Health Professions Act, 1991* ("RHPA") had been in force for approximately three years. In 1993, the *Code* to the RHPA was amended to add a definition of "sexual abuse" in s. 1(3) and to make sexual abuse of a patient an act of professional misconduct in s. 51(1)(b.1). Those provisions remained unchanged between 1993 and today. The definition of "patient" in s. 1(6) of the *Code* was added in 2017, which extended the term to former patients: "an individual who was a member's patient within one year… from the date on which the individual ceased to be the member's patient". Therefore, in 1994 at the time of these events, the term "patient" did not include a former patient.

25. The CNO did not have any written standards regarding relationships with former patients in 1994.

26. Similarly, the Hospital did not have any written policy addressing boundaries or intimate relationships with current or former patients in 1994.

27. CNO retained Dr. Ruth Gallop to provide an expert opinion regarding the standards of practice in 1994, and the Member's conduct.

28. CNO's first written document discussing nurse-patient boundaries was published in September, 1995. In Dr. Gallop's opinion, she stated that in the early 1990s, there was significant discussions and education regarding professional boundaries and personal/sexual relationships with patients. She held an office at that time at the Hospital and was a professor with the Department of Nursing at the University of Toronto. She states that these discussions about the hazards of nurses having personal/sexual relationships with patients took place not only within nursing in general, but also at the Hospital in particular. Dr. Gallop wrote an article for the February 1993 issue of the *Canadian Nurse*, which was featured on the cover of that magazine, and which specifically addressed the issue of nurses having personal/sexual relationships with clients, both while the client was in care and post discharge. At that time, the *Canadian Nurse* was distributed to all members of the CNO.

29. If the Member were to testify, she would testify that she had no memory of receiving any formal or informal education or training on this topic, and does not recall the "significant discussions" that Dr. Gallop states were occurring at that time.

30. Although there were no written standards of practice in relation to boundaries of the therapeutic nurse-patient relationship in 1994, Dr. Gallop opined that at the time of the incidents, an RN would know the following to be reasonable expectations of her as a nursing professional:
    a. a nurse was responsible for maintaining an appropriate therapeutic relationship with a patient, which included maintaining professional boundaries;
    b. a patient with bipolar disorder would likely require care for the balance of their life;

c. engaging in a personal/sexual relationship with such a patient could inhibit the patient's ability to obtain treatment in the future;
d. a nurse working in a psychiatric setting with feelings of attraction for a patient should be cognizant of the potentially deleterious effects of the attraction on treatment decisions, transfer the care of the patient and consult with the clinical team regarding the situation; and
e. a nurse's obligations to maintain a professional relationship could continue after a patient was discharged from care, especially if the patient was likely to require treatment in the future.

31. In summary, Dr. Gallop opined that the Member breached the standards of practice by failing to take appropriate steps when she realized she was attracted to the Patient, including informing her supervisor or others on the care team of the attraction and transferring his care to other care providers.

32. Dr. Gallop also opined that engaging in a personal and sexual relationship with the Patient, while he remained a patient of the Program and within a short time after he was discharged from the Program, was a breach of the standards of practice and her conduct was disgraceful, dishonourable or unprofessional.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

33. The Member admits that she committed the acts of professional misconduct as alleged in paragraphs 1(a) and 3(a) of the Notice of Hearing, as described in paragraphs 12-17 above, in that she failed to maintain the boundaries of the nurse-client relationship. Her conduct breached the standards of practice of the profession and was disgraceful, dishonourable and unprofessional.

34. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 1(b), 2 and 3(b) of the Notice of Hearing, as described in paragraphs 12-17 above, in that she sexually abused the Patient by engaging in touching of a sexual nature and behaviour or remarks of a sexual nature. Her conduct breached the standards of practice of the profession, constituted sexual abuse under s. 1(3)(b) and (c) of the *Code*, and was disgraceful, dishonourable and unprofessional.

35. The Member admits that she committed the acts of professional misconduct as alleged in paragraphs 1(c) and 3(c) of the Notice of Hearing, as described in paragraph 18 above, in that she removed the Patient's medical record from the Hospital and permitted the Patient to review and redact the medical record. Her conduct breached the standards of practice of the profession and was disgraceful, dishonourable and unprofessional.

Counsel Submissions

College Counsel and the Member's Counsel made submissions in addition to the Agreed Statement of Facts.

College Counsel

College Counsel submitted that each allegation is supported in the Agreed Statement of Facts as well as the Member's admission to the allegations.

Regarding allegations 1(a) and 3(a), breach of boundaries, the Member admitted to the misconduct. College Counsel stated that the standards of practice of the profession in 1994 are set out in Dr. Gallop's opinion. While at the time there were no written standards related to boundaries for the therapeutic nurse-client relationship in 1994, it does not mean that there were no standards of practice. The Member should have known the importance of maintaining boundaries, particularly with a psychiatric patient who would likely require care in the future. The Member should have also known that sexual relations might inhibit the Patient from getting treatment in the future.

Regarding allegations 1(b), 2 and 3(b), sexual abuse, College Counsel clarified that the allegation of sexual abuse is made based on the Member's admission to sexual touching, behaviors and remarks. Sexual intercourse following discharge was not specifically mentioned in legislation in 1994 but legislation at the time did prohibit sexual touching, behaviours and remarks.

Regarding allegations 1(c) and 3(c), removal of the medical record and allowing the Patient to remove and redact content, was an intentional act and a breach of standards.

College Counsel submitted that the acts by the Member were entered into knowingly despite the serious illness of the Patient and findings should be made for disgraceful, dishonorable and unprofessional conduct.

Member's Counsel

The Member's Counsel highlighted the 29 year career of the Member and lack of prior discipline with the College. The Member had a 16-year common law relationship with the Patient, a meaningful amount of time where the Member financially and emotionally supported the Patient including the pursuit of graduate degrees. The Member's Counsel suggested consideration should be given to the circumstances preceding the complaint. Seven years after the relationship ended the Patient requested an apology and $125,000.00 as combined compensation. Within a month of the request, the Patient submitted a complaint to the College. The Member's Counsel also stated that despite the opinion of Dr. Gallop, the Member had no recollection of discussions or training related to boundaries at the time of the incident. The College did not have a standard and the Hospital did not have a policy. The Member's Counsel also stated there was no evidence or fact that the alleged behavior interfered with continuity of care, access to care or that the Patient had further treatment for his illness.

College Counsel's Reply

College Counsel responded that the 16-year relationship, the years that followed and the timing or process by which the Patient filed the complaint with the College were irrelevant to the professional misconduct that took place at the start of the relationship in 1994. College Counsel also stated that the Member did not voluntarily report the behavior, but rather it was reported by the Patient. The timing of the report years after the incident is also less relevant as there can be many reasons for delayed reporting. Additionally, in the Agreed Statement of Facts, paragraph #23, the Member acknowledged the complaint was substantiated. Regarding the Member's claim that she was not aware of boundary related discussions and did not attend training on this topic, College Counsel stated that legislation is binding regardless of whether the Member was paying attention to College Standards or communications from the College. The Member also admitted in the Agreed Statement of Facts that there were relevant standards at the time and she breached them. Regarding whether the Patient's care was impacted, College Counsel pointed out that while there may be no facts to indicate impact on treatment, paragraph #16 in the Agreed Statement of Facts indicates impact to the Patient. The College Standards also exist to protect from potential harm. The presence or absence of actual harm is irrelevant. The Patient had been admitted for severe distress, anxiety, attempted suicide and within a month the Member had feelings for the Patient. She was aware of the Patient's medical history, his post-traumatic stress and that he had bipolar disorder. Despite this, the Member did not withdraw care but rather engaged in sexual touching, behaviours and remarks with the Patient. College Counsel submitted these activities described practice that was disgraceful, dishonourable and unprofessional.

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), 1(b), 1(c), 2, 3(a), 3(b) and 3(c) of the Notice of Hearing. As to allegations 3(a), 3(b) and 3(c) 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 9-11, 12-17 and 23, 30 and 33 in the Agreed Statement of Facts. The evidence shows that the Member contravened a standard of practice by failing to maintain the boundaries of the therapeutic nurse-client relationship. As a nurse in the Community Nursing Program, the Member would have had access to the Patient's medical history including information on his post-traumatic stress and diagnosis of bipolar disorder. She would have known the Patient was very vulnerable and compromised. She should have realized it is her responsibility, not the Patient's, to maintain an appropriate, therapeutic and professional boundary. Even though she admitted to feelings of attraction for the Patient, she did not transfer care nor did she consult with the care team. Instead, the Member began a sexual and romantic relationship with the Patient. She

should have known her conduct could have harmful effects on the Patient and that it was inappropriate, unprofessional and a violation of professional boundaries.

Allegation 1(b) in the Notice of Hearing is supported by paragraphs 9-11, 12-17, 23-32 and 34 in the Agreed Statement of Facts. The Member admitted she engaged in sexual touching, behaviour and remarks with the Patient during the time she was part of his health care team. Despite knowing his fragile mental state and admitting feelings of attraction, she did not transfer care or consult with the health care team but rather began a sexual relationship with the Patient.

Allegation 1(c) in the Notice of Hearing is supported by paragraphs 18, 23-32 and 35 in the Agreed Statement of Facts. The Member admitted to intentionally removing the Patient's record from the Hospital and allowing the Patient to remove and redact content. This action contravened a standard of practice to protect and ensure the integrity of the patient record.

Allegation 2 in the Notice of Hearing is supported by paragraphs 12-17, 23, 30 and 33 in the Agreed Statement of Facts. The Member sexually abused the Patient during a time when she was part of the Patient's health care team. The Member would have been aware of the Patient's fragile mental state and despite acknowledging feelings of attraction, the Member did not withdraw care but instead began a relationship with the Patient that included sexual touching, behaviour and remarks.

With respect to allegations 3(a), 3(b) and 3(c) in the Notice of Hearing, the Panel finds the allegations are supported by paragraphs 9-18 and 23-35 in the Agreed Statement of Facts. Her behaviour while being part of the Patient's health care team constituted a breach of boundaries in the therapeutic nurse-client relationship. Her actions were unprofessional and demonstrated a serious and persistent disregard for her professional obligations.

The Panel also finds that the Member's conduct was dishonourable. Removing the Patient's medical record from the Hospital and allowing the Patient to review and redact the medical record demonstrated an element of dishonesty and deceit. 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. Engaging in touching, behavior and remarks of a sexual nature with a vulnerable mental health patient was deplorable and 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's Counsel 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 immediately revoke the Member's certificate of registration.

Penalty Submissions

College Counsel

College Counsel submitted that the Joint Submission on Order also provides in Appendix "A" an Undertaking by the Member for the Member's permanent resignation as a member of the College effective October 21, 2020. The Undertaking includes the Member's commitment not to apply for membership with the College as a Registered Nurse or Registered Practical Nurse at any time in the future. College Counsel submitted that the Member's permanent resignation allows for a limited penalty with no need for terms, limits or conditions or suspension of the Member's certificate.

College Counsel further submitted that in the circumstances of the case revocation is requested to satisfy the need to protect the public and to provide specific as well as general deterrence. The public needs to be satisfied nurses can self-govern. As well, sexual abuse of a psychiatric patient is very serious; the most serious end of the spectrum of misconduct. Furthermore, remediation and rehabilitation are relevant only where appropriate and possible. Here the need for remediation and rehabilitation is not required since the member voluntarily resigned her certificate of registration.

The mitigating factors in this case were:

- The Member's admission of professional misconduct;
- The Member had no history of professional misconduct with the College.

The aggravating factors in this case were:

- The significant professional boundaries breached by the Member:
    - The sexual touching, remarks and behaviours during and after the nurse-patient relationship;
    - The nurse-patient relationship evolved into a full conjugal relationship within months of the Patient's formal discharge from a treatment program;
    - The Member's behaviour met the criteria for sexual abuse as per the legislation in place in 1994;
    - The Member allowed the Patient to delete parts of his medical record. This showed an obvious misunderstanding of what was best for the Patient and a blurring of lines of the patient-nurse relationship;
- The Patient's vulnerability:
    - The Patient was being treated for severe mental illness and was vulnerable and compromised;
    - The sexual abuse began when the Patient was still in the treatment program;
    - The Patient had been admitted for suicide; the most vulnerable kind of patient;
- The Member's lack of insight and understanding of the applicable standards:
    - In the Agreed Statement of Facts the Member disputed in paragraph #17 the Patient's testimony in paragraph #16 where he stated he was traumatized and felt taken advantage of while in a vulnerable mental state. The Member failed to appreciate that the point of boundaries is to protect patients that are vulnerable and who can be prone to confusion regarding the nurse-patient relationship;
- The manner in which the matter came to light:

- The Member's admission to professional misconduct came 26 years after the events and after a 16-year relationship that was tainted by how it began in violation of professional standards;
- The Member kept the relationship secret, failing to report the events to the College despite a request from the Patient to do so;
- The Patient denied in the Agreed Statement of Facts in paragraph #21 that the request for the money was a money grab but when asked by the Patient to report to the College, the Member declined.

The proposed penalty provides for general deterrence by sending a message that sexual abuse and boundary violations are serious violations and therefore will result in serious consequences.

The proposed penalty provides for specific deterrence as the Member will be unable to practice nursing.

Overall, the public is protected because the Member will no longer practice nursing.

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

In *CNO v. Franklin* (Discipline Committee, 2020) there was a breach of boundaries and sexual abuse that involved an exploitation of power between a nurse and a patient. In this case the Discipline Committee imposed a reprimand and revoked the member's certificate of registration.

In *CNO v. Hubercheck* (Discipline Committee, 2018) the member self-reported professional misconduct that included boundary violations and sexual abuse. The patient suffered from mental illness and the events started while the patient was receiving treatment for this illness. In this case the Discipline Committee issued a reprimand and revoked the member's certificate of registration.

In *CNO v. Hawil* (Discipline Committee, 2016) there was no allegation of sexual abuse although the member admitted to serious boundary violations and had sexual relations with the client within 6 weeks of discharge from a hospital. In this case the Discipline Committee issued a reprimand and revoked the member's certificate of registration.

Member's Counsel

The Member's Counsel also made submissions on penalty highlighting the Member's 29 year career with no history of discipline with the College, as well as her resignation in June 2018. The Member's Counsel agreed that supervisors and the College were not aware of the professional misconduct but the relationship, 16 years as common law spouses, was hardly a secret. The Member also did not agree to the assertions in the Agreed Statement of Facts, paragraph #16. The Member supported the Patient through graduate studies. Seven years after the relationship ended, the Patient demanded $125,000.00.

Based on this history, the Member feels she has valid grounds to question the Patient's trauma. However, the Member agreed to the facts, admitted to the allegations and accepted revocation, thereby cooperating with the College and showing insight. The Member's Counsel stated that disputing the facts does not equate to lack of insight.

The Member's Counsel also submitted that the cases presented by College Counsel were from events that took place in 2014-2017 and were based on standards different than those in 1994. As well in *CNO v. Hawil* (Discipline Committee, 2016) the patient was impacted by a loss of continuity of care which was not present in this case.

College Counsel's Reply

College Counsel responded that *CNO v. Hubercheck* (Discipline Committee, 2018) and *CNO v. Franklin* (Discipline Committee, 2020) had similar conduct as this case. While there were multiple cases from the 1990's where boundary breaches and sexual abuse were heard, the intent of the 3 cases presented was to show appropriate penalties for today. College Counsel also noted nursing standards in 1994 were based on basic nursing principles.

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 immediately revoke the Member's certificate of registration.

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 the proposed penalty, has accepted responsibility. The Panel finds that the penalty satisfies the principles of specific and general deterrence as well as public protection. Specific deterrence is met through the oral reprimand. The penalty also serves as a general deterrence via the reprimand and revocation indicating to all members that boundary and sexual abuse violations will have serious consequences. Revocation ensures the Member will not practice nursing again, thereby protecting the public. Rehabilitation and remediation are not relevant as the Member will not be practicing nursing again.

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

I, Terry Holland, RPN sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel.