

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

**PANEL:**

Terry Holland, RPN	Panel Chair
Dawn Cutler, RN	Member
Grace Fox, NP	Member
Christopher Woodbury	Public Member

**BETWEEN:**

COLLEGE OF NURSES OF ONTARIO	)	<u>DENISE COONEY</u> for
	)	College of Nurses of Ontario
- and -	)	
	)	
MARY ANGELA HUGHES	)	<u>MICHAEL MANDARINO</u> for
Registration No. 9419029	)	Mary Angela Hughes
	)	
	)	
	)	<u>CHRISTOPHER WIRTH</u>
	)	Independent Legal Counsel
	)	
	)	Heard: March 22, 2019

**DECISION AND REASONS**

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) on March 22, 2019 at the College of Nurses of Ontario (the “College”) at Toronto.

**The Allegations**

The allegations against Mary Angela Hughes (the “Member”) as stated in the Notice of Hearing dated November 6, 2019 are as follows:

**IT IS ALLEGED THAT:**

1. You have committed an act of professional misconduct as provided by subsection 51(1)(a) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*, S.O. 1991, c. 32, as amended, in that on June 20, 2017, you were found guilty of an offence relevant to your suitability to practise, and in particular in the Ontario Superior Court of Justice in Newmarket, Ontario you were found guilty of defrauding [a Client’s spouse] out of money a sum exceeding

\$5,000 by deceit, falsehood or other fraudulent means, contrary to section 380(1) of the *Criminal Code*.

### **Member's Plea**

The Member admitted the allegation set out in paragraph 1 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 an agreement had been reached on the facts and introduced an Agreed Statement of Facts, which reads as follows:

#### **THE MEMBER**

1. Mary Angela Hughes (the "Member") obtained a diploma in nursing from George Brown College in 1994.
2. The Member registered with the College of Nurses of Ontario (the "College") as a Registered Nurse ("RN") on August 22, 1994.
3. The Member was employed as a full-time Rapid Response Nurse at North Simcoe Muskoka Community Care Access Centre ("CCAC") from October 2012 until August 2014, when her employment was terminated as a result of the incidents described below.
4. As a Rapid Response Nurse, the Member met with clients in their homes after they were discharged from the hospital for assessment and treatment.

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

5. The Member provided nursing care to the Client through the CCAC. The Client lived with his [spouse], [ ], at the time. The Client passed away on February 9, 2013. The Member was never assigned to provide care to [the Client's spouse].
6. In the fall of 2013, some months after the Client passed away, the Member attended at his [spouse's], [ ] home. The Member asked [the Client's spouse] if she had any work for the Member's boyfriend. [The Client's spouse] did not, but the Member started visiting [the Client's spouse] regularly after that visit.
7. The Member began taking [the Client's spouse] to appointments, helping her with groceries, and assisting in other capacities, including with her banking and bill payments.
8. Unbeknownst to [the Client's spouse], and without authorization:

- a. between December 2013 and March 2014, the Member used [the Client's spouse's] credit card on 20 different occasions to obtain cash advances for her own purposes, totalling \$7,950; and
  - b. between February and March 2014, the Member email transferred \$9,050 from [the Client's spouse's] accounts to her own accounts for her own purposes on eight different occasions.
9. In April 2014, [the Client's spouse's] son, [ ], discovered the amounts missing from [the Client's spouse's] bank accounts and contacted the police. The Member was arrested on August 26, 2014. She was charged with defrauding [the Client's spouse] out of money, in excess of \$5,000, and stealing money from [the Client's spouse] in excess of \$5,000. The Member ultimately admitted as part of the criminal proceedings that the total amount of the fraud was \$17,000.
10. On June 20, 2017, the Member pled guilty and was convicted of fraud over \$5,000. On December 19, 2017, the Member was sentenced to 90 days in jail, to be served intermittently every weekend until the sentence was served.
11. The Member was on probation while serving the intermittent sentence, which was followed by a further three year probation period. The conditions of her probation order prohibit her from contacting [the Client's spouse] or her family.
12. The Member was also ordered to pay restitution to [the Client's spouse] in the amount of \$17,000. She paid \$10,050 as of December 19, 2017, and has been ordered to repay the balance owing of \$6,950.
13. If the Member were to testify, she would say that she was experiencing difficulties in her life, at the time, and attributes her poor judgment to this difficult period in her life, which included significant financial and personal loss. The Member would further testify that she has accepted responsibility for her actions and has experienced significant consequences and sanctions as a result.
14. If the Member were to testify, she would say that the conduct above did not occur in the course of her employment as a nurse and does not relate to her clinical nursing skills. However, she acknowledges that she met [the Client's spouse] as a result of the nursing care she provided to her husband.

#### **ADMISSIONS OF PROFESSIONAL MISCONDUCT**

15. The Member admits that she committed the act of professional misconduct as alleged in paragraph 1 of the Notice of Hearing, as described in paragraphs 5 to 12 above, in that she was found guilty of an offence relevant to her suitability to practise nursing, when she was found guilty of defrauding [the Client's spouse] out of more than \$5,000 by deceit, falsehood or other fraudulent means, contrary to section 380(1) of the *Criminal Code of Canada*.

## **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 an act of professional misconduct as alleged in paragraph 1 of the Notice of Hearing.

## **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 5-15 in the Agreed Statement of Facts, and in particular, paragraphs 10, 11 and 12 related to the Criminal Court proceedings.

The Member was found guilty of an offence relevant to her suitability to practice nursing; specifically defrauding [the Client's spouse] of a sum exceeding \$5000 by deceit, falsehood or other fraudulent means contrary to section 380 (1) of the Criminal Code. The Member committed this offence by taking advantage of her introduction to [the Client's spouse] in the course of providing nursing care to [the Client]. Thus, the offence of which the Member was found guilty is relevant to her suitability to practice nursing.

## **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 suspend the Member's certificate of registration for five 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 Regulatory 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*,
    - 2. *Therapeutic Nurse-Client Relationship*,
  - 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 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; and
  - c) The Member shall not practise independently in the community for a period of 12 months from the date the Member returns to the practice of nursing.
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 mitigating factors in this case were that the issues arose during a troubling period in the Member's life. The Member was deeply remorseful, cooperated with the College process, admitted the allegations and showed insight into her conduct and obligations to the College. This was the first matter involving the Member to come before the Discipline Committee.

The aggravating factors in this case were the seriousness of the conduct. The Member's fraudulent activity involved the misappropriation of a total of \$17,000.00. The Member defrauded the spouse of a former client. The Member would not have met the victim except through her nursing position. The victim invited her into her home and trusted her, wherein the Member exploited that trust intentionally and for her own personal gain.

The Order protects the public and provides specific and general deterrence, while giving the Member the opportunity to rehabilitate herself and return to the practice of nursing.

The proposed penalty provides for general deterrence through an oral reprimand and a five month suspension. It sends a clear message to the membership that this behaviour will not be tolerated and a message to the public that nurses are held accountable for their behaviour and that this profession has the ability to self-regulate.

The proposed penalty provides for specific deterrence through the reprimand and a five month suspension which will be an effective deterrent to the Member against repeating this conduct.

The proposed penalty provides for remediation and rehabilitation through specific terms, limitations and conditions including two meetings with a Regulatory Expert to review relevant standards and completion of modules so that in the future the Member's conduct will be appropriate and consistent with the requirements of the profession and the College.

Overall, the public is protected because of the specific terms, conditions and limitations including employer notification for a period of eighteen months and the Member shall not practise independently in the community for a period of twelve months from the date the Member returns to practice. College Counsel submitted cases to the Panel to demonstrate that the proposed penalty fell within the range of penalties imposed in similar cases from this Discipline Committee.

*College of Nurses of Ontario v. Melanie Burton (2013).* The member was not present for the hearing. The member was caught stealing a total of \$215.00 over a period of a month from the client after the client's daughter had installed a video camera in the room. The member was found guilty of theft in Criminal Court. The member received a reprimand, a five month suspension and terms, conditions and limitations including two meetings with a Regulatory Expert and 24 months of employer notification.

*College of Nurses of Ontario v. Sherry Lee Reaume (2012).* The member was not present at the hearing. The member took and activated a credit card from a client and misappropriated \$1005.00. The member was found guilty in the Ontario Court of Justice. The member was ordered to receive a reprimand, a suspension on her certificate of registration for six months and terms, conditions and limitations including two sessions with a Nursing Expert, 24 months of employer notification and was banned from independent community practice for a period of 12 months.

*College of Nurses of Ontario v. Melissa Visca (2017).* The member was not present at the hearing. The member misappropriated \$40.00 in cash and two bottles of narcotics from Client A and \$20-30 in cash from Client B. The member was found guilty of theft contrary to the Criminal Code of Canada. The member was ordered to receive a reprimand and suspension of her certificate of registration for five months and terms, conditions and limitations including two meetings with a Nursing Expert, 24 months of employer notification and was prohibited from practising in the community independently for a period of eighteen months from the date the member returns to practice.

The Member's Counsel agreed that the proposed penalty reflects these aggravating and mitigating factors. He also indicated that his client was remorseful and apologizes to the College and the victim. The Member's Counsel also provided a further case for the Panel to demonstrate that the proposed penalty is consistent with previous cases and is reasonable.

*College of Nurses of Ontario v. Antonella Pace (2012)*. The member was present and represented by Counsel. The member was found guilty of theft under the Criminal Code of Canada. The panel ordered a reprimand and a suspension of the member's certificate of registration for five months. Terms, conditions and limitations were imposed including one session with a Nursing Expert and eighteen months employer notification.

### **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 five 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 Regulatory 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*,
      2. *Therapeutic Nurse-Client Relationship*,
    - 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 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; and
  - c) The Member shall not practise independently in the community for a period of 12 months from the date the Member returns to the practice of nursing.
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, remediation, and public protection. The suspension of five months followed by a period of employer notification addresses the principle of public protection. The terms, conditions and limitations provide the opportunity for rehabilitation, which will enable the Member to return to the profession. The penalty also addresses general and specific deterrence in that it sends the message to the Member and the membership that such conduct will not be tolerated by this College.

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.