

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

<b>PANEL:</b>	Mary MacNeil, RN	Chairperson
	Sylvia Douglas	Public Member
	Donna May, RPN	Member
	Susan Roger, RN	Member

**BETWEEN:**

COLLEGE OF NURSES OF ONTARIO	)	<u>DOUGLAS MONTGOMERY</u> for
	)	College of Nurses of Ontario
- and -	)	
	)	
BILLY GARCIA	)	<u>CHRISTOPHER BRYDEN</u> for
Registration No. 14048452	)	Billy Garcia
	)	
	)	<u>CHRISTOPHER WIRTH</u>
	)	Independent Legal Counsel
	)	
	)	Heard: May 24, 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 May 24, 2023, via videoconference.

**The Allegations**

The allegations against Billy Garcia (the “Member”) as stated in the Notice of Hearing dated April 10, 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 Nurse at Toronto General 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 2015 to 2016, you submitted and/or accepted payment for false claims under the Facility’s employee group 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 Nurse at Toronto General Hospital in Toronto, Ontario (the "Facility"), you misappropriated property from a client or workplace, and in particular, in or around 2015 to 2016, you submitted and/or accepted payment for false claims under the Facility's employee group 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 Nurse at Toronto General Hospital in Toronto, Ontario (the "Facility"), you falsified a record relating to your practice, and in particular, in or around 2015 to 2016, you submitted and/or accepted payment for false claims under the Facility's employee group 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 Nurse Toronto General Hospital in Toronto, Ontario (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 2015 to 2016, you submitted and/or accepted payment for false claims under the Facility's employee group 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 Nurse at Toronto General Hospital in Toronto, Ontario (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 2015 to 2016, you submitted and/or accepted payment for false claims under the Facility's employee group 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'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:

#### **MEMBER**

1. Billy Garcia (the "Member") registered with the College of Nurses of Ontario ("CNO") as a Registered Nurse ("RN") in the Temporary Class on June 6, 2014, and in the General Class on August 14, 2014.
2. At the time of the incidents described below, the Member was employed at Toronto General Hospital in Toronto, Ontario (the "Facility") in the Cardiovascular Intensive Care Unit.

#### **BENEFIT PLAN**

3. The Facility offers its employees a self-insured group insurance policy by which the Facility provides coverage to employees for extended health care, dental, and other insurance benefits (the "Benefit Plan"). Sun Life Financial ("Sun Life") 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.
4. In order to submit a benefit claim, members of the Benefit Plan complete a medical expense claim form provided by Sun Life. 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 all goods and services being claimed have been received by me and/or my spouse or dependents." The plan member must go on to "certify that the information in this form is true and complete."

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

5. Between 2015 and 2016, the Member submitted five claims for products and services ostensibly received at a service provider called Downtown Wellness and Foot Care. The total value of the claims amounted to \$7,050, and included claims for compression stockings, custom orthotics, shoe modifications, and chiropody assessments.
6. In 2017, Sun Life alerted the Facility that Sun Life had uncovered what was described as a fraudulent benefit scheme which implicated Downtown Wellness. The Facility initiated its own review of claims submitted by its employees for products or services claimed through Downtown Wellness.

7. The Facility interviewed the Member on multiple occasions. In a meeting on October 27, 2017, the Member admitted to submitting claims for medical products and receiving non-medical products instead.
8. On November 24, 2017, the Member admitted to sharing knowledge of the scheme with other employees. The Member told a number of other employees that one could use the payments received for benefits under their benefit plan to purchase non-medical brand-name products.
9. The Member admits that some, but not all, of the claims that she submitted were fraudulent. The value of improper claims amounted to \$2,110. The Member paid restitution to the Facility and received a five-day unpaid suspension.

### **BENEFIT FRAUD CASES**

10. To date, over 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 false 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 10 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 10 to 17 above.

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 to 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 and conducted a written and verbal plea inquiry, which confirmed that the plea was voluntary, informed, and made on the advice of experienced Counsel. 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.

College Counsel made this request with the Panel's understanding that the Member had submitted the false benefit claims made available to her through her employment as a nurse and her employment as a RN.

With regard to allegation #1, College Counsel submitted that the Member failed to meet the standards of practice of the profession, by submitting and accepting payment for false benefit claims and sharing the knowledge of the scheme with other employees. The Member admitted that this conduct was a breach of the *Professional Standards* and the *Ethics* Standard as set out in paragraph 18 of the Agreed Statement of Facts.

With regard to allegation #5, College Counsel submitted that as set out in the Agreed Statement of Facts, the Member acknowledged her conduct, in submitting false claims which is relevant to the practice of nursing. By the Member's own admissions to these allegations, she has recognized that she acted with a serious disregard for her professional obligations. Only through her employment as a nurse, did the Member have access to the Facility's Benefit Plan. The Member's conduct, particularly with her failure to act with honesty and integrity and to role model these behaviours for others, would reasonably be considered by others to be unprofessional and dishonourable. The Member's behaviour is dishonest and has elements of moral failing.

The *CNO v. Verde-Balayo* (Discipline Committee, 2021) decision on liability was provided for the Panel's reference and College Counsel submitted that this decision reveals commonalities to the case before this Panel in the Member's deceitful behaviour, the lack of integrity and the dishonour that the Member has brought to the nursing profession. College Counsel submitted that the case before this Panel is largely the same and therefore should be treated the same by the Panel.

Submissions on liability were made by the Member's Counsel.

The Member's Counsel agreed with College Counsel's submissions and added that the Member is remorseful for her actions. The Panel was reminded that the Member had made restitution to the Facility. She is committed to moving forward and assures the Panel that there will not be a repeat of her behaviour.

## **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 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 in the Notice of Hearing is supported by paragraphs 5 to 9 and 10 to 18 in the Agreed Statement of Facts. The Member admitted to submitting false claims through the Facility's Benefit Plan between 2015 and 2016 for compression stockings, custom orthotics, shoe modifications, and chiropody assessments and to receiving non-medical products in the amount of \$2,110 in relation to those false claims. In doing so, she breached the College's *Professional Standards* and the *Ethics Standard*.

The Member breached the College's *Professional Standards* in submitting those false claims which provides that nurses are responsible for ensuring that their practice and conduct meet legislative requirements, require nurses to be accountable to the public for their actions and promote respect for the profession. Nurses are responsible for their actions and the consequences of those actions. Nurses must be trustworthy and display integrity.

The Member also breached the College's *Ethics Standard* which provides the ethical values that are important to the nursing profession, which include maintaining commitments, truthfulness and that being a member of the profession brings with it the respect and trust of the public. Truthfulness, in this instance, means speaking or acting without intending to deceive.

Allegation #2 in the Notice of Hearing is supported by paragraphs 5 to 9 and 19 in the Agreed Statement of Facts. The Member admitted to misappropriating property from the Facility when she submitted the false claims through the Facility's Benefit Plan and received non-medical products instead. Receiving non-medical products with respect to false benefit claims constitutes misappropriation of property.

Allegation #3 in the Notice of Hearing is supported by paragraphs 5 to 9 and 20 in the Agreed Statement of Facts. The Member admitted to falsifying a record relating to her practice when she signed and submitted false claims forms to the Facility's Benefit Plan and certified that the information in the form was true and complete. The Member, as an RN 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 allegation that the Member falsified a record relating to her practice and did so in the context of her employment as an RN at the Facility.

Allegation #4 in the Notice of Hearing is supported by paragraphs 5 to 9 and 21 in the Agreed Statement of Facts. The Member admitted 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 all goods and services being claimed have been received by me and/or my spouse or dependents” and also to “certify that the information in this form is true and complete”, 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. As noted above, the Member had access to the Facility’s Benefit Plan by virtue of her employment as a nursing professional. When she signed and submitted claim forms on her behalf, she did so in her capacity as an RN employee of the Facility. Accordingly, the facts support the allegation that the Member signed or issued, in her professional capacity, a document that she knew contained a false or misleading statement.

Allegation # 5 in the Notice of Hearing is supported by paragraphs 5 to 9, 10 to 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 and was unprofessional as it demonstrated a serious and persistent disregard for her professional obligations in breaching the *Professional Standards* and the *Ethics Standard*. The Member personally benefitted from the false claims and was found to have failed to meet her professional obligations of respect, trust and integrity.

The Panel also finds that the Member’s conduct was dishonourable. It demonstrated an element of dishonesty and deceit through misappropriation from the Facility’s Benefit Plan. Her actions exhibited an element of moral failing and brings shame to the nursing profession. The Member knew or ought to have known that her conduct was unacceptable and fell well below the standards of a professional. Of particular concern to the Panel was that the Member shared aspects of her conduct with others. The Member’s actions do not meet the trust that the public expects of nurses.

### **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 3 months of the date that this Order becomes final.



2. Directing the Executive Director to suspend the Member's certificate of registration for 3 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 a practicing class.
3. Directing the Executive Director to impose the following terms, conditions and limitations on the Member's certificate of registration:
  - a) The Member will attend 2 meetings with a Regulatory Expert (the "Expert"), at the Member's own expense and within 6 months from the date that this Order becomes final. To comply, the Member is required to ensure that:
    - i. The Expert has expertise in nursing regulation and has been approved by CNO in advance of the meetings;
    - ii. At least 5 days before the first meeting, or within another timeframe approved by the Expert, the Member provides the Expert with a copy of:
      1. the Panel's Order,
      2. the Notice of Hearing,
      3. the Agreed Statement of Facts,
      4. this Joint Submission on Order, and
      5. if available, a copy of the Panel's Decision and Reasons;
    - iii. Before the first meeting, the Member reviews the following CNO publications and completes the associated Reflective Questionnaires, online learning modules and decision tools (where applicable):
      1. *Code of Conduct*,
      2. *Professional Standards*, and
      3. *Ethics*;
    - iv. At least 5 days before the first meeting, or within another timeframe approved by the Expert, the Member provides the Expert with a copy of the completed Reflective Questionnaires;
    - 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 patients, colleagues, profession and self,
      3. strategies for preventing the misconduct from recurring,

4. the publications, questionnaires and modules set out above, and
  5. the development of a learning plan in collaboration with the Expert;
- vi. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards their report to CNO, 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 the Member's 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 the Member's certificate of registration;
- b) For a period of 12 months from the date the Member returns to the practice of nursing, the Member will notify the Member's employer(s) of the decision. To comply, the Member is required to:
- i. Inform any employer of the decision prior to commencing or prior to resuming employment in any nursing position;
  - ii. Ensure that CNO 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;
  - iii. Provide the Member's 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;
  - iv. 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 CNO, in which it will confirm:

1. that they received a copy of the required documents, and
  2. that they agree to notify CNO immediately upon receipt of any information that the Member has breached the standards of practice of the profession.
4. All documents delivered by the Member to CNO, the Expert or the Member's employer(s) will be delivered by verifiable method, the proof of which the Member will retain.

### **Penalty Submissions**

College Counsel reminded the Panel that they would only have the option to not accept the Joint Submission on Order if it brought the administration of justice into question or would be contrary to the public interest. College Counsel and the Member's Counsel agreed that the test to reject the Joint Submission on Order was not met in this case.

Submissions were made by College Counsel.

College Counsel asked the Panel to contemplate that the proposed penalty was negotiated by experienced Counsel and in doing so, three considerations were made in preparing the penalty:

1. That the penalty reflects the circumstances of the case;
2. That the goals of penalty are met; and,
3. That the penalty is in line with prior decisions of the Discipline Committee.

The aggravating factors in this case were:

- The Member has exhibited a serious and persistent disregard for her professional obligations and demonstrated dishonesty and deceit over a period of time;
- The Member's conduct was not a single lapse of judgement but misconduct that took place over two years;
- The Member has taken advantage of the trust of the Facility and having access to an employee funded Benefit Plan; and
- The Member shared knowledge of this scheme with co-workers.

The mitigating factors in this case were:

- The Member took responsibility with the Facility and the College and has made restitution and, in doing so, has shown remorse;
- The Member admitted to the allegations and entered into an Agreed Statement of Facts and a Joint Submission on Order with the College; and

- The Member has been registered with the College since 2014 and has no prior disciplinary history with the College.

College Counsel submitted that the Joint Submission on Order meets the goals of penalty. The goal of any penalty order is protection of the public, maintaining high professional standards and enhancing the public's confidence in the College's ability to regulate its members. These goals are achieved through a penalty that addresses specific and general deterrence, and rehabilitation and remediation. College Counsel submitted that the proposed penalty meets all of these requirements.

The proposed penalty provides for general deterrence through the 3-month suspension of the Member's certificate of registration, which sends a message to members of the profession that this type of behaviour will not be tolerated. With over 80 cases of similar misconduct referred to the Discipline Committee, College Counsel submitted that this is evidence of a systemic issue that needs to be addressed.

The proposed penalty provides for specific deterrence through the oral reprimand and the 3-month suspension of the Member's certificate of registration. The oral reprimand will assist the Member in understanding how her actions impact other members and the public. The suspension sends a strong signal to the Member that this type of behaviour is unacceptable and will not be tolerated by members of the nursing profession.

The proposed penalty provides for remediation and rehabilitation through the 2 meetings with a Regulatory Expert and review of the College's publications. College Counsel submitted that this additional knowledge will help prepare the Member to return to ethical practice.

Overall, the public is protected through the 12-month of employer notification as there will be additional oversight on the Member's return to practice and will provide an additional layer of public confidence that the nursing profession has the ability to regulate itself.

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. Verde-Balayo* (Discipline Committee, 2021): In this case, the hearing proceeded by way of an Agreed Statement of Facts and a Partial Joint Submission on Order. This is one of the earliest cases heard, similar to the case before this Panel and such similarities include the member making false benefit claims through her employee group benefit plan, signing or issuing documents she knew or ought to have known were false and misappropriation of property. The member received \$7,982.50 as a result of the false claims. The member did not make restitution. The penalty included an oral reprimand, a 4-month suspension of the member's certificate of registration, 2 meetings with a Regulatory Expert and 12 months of employer notification.

*CNO v. Soosaipillai* (Discipline Committee, 2022): In this case, the hearing proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. This case is similar in that the member made false benefit claims in the amount of \$2,150.00 through her employee group benefit plan and signed documents she knew or ought to have known were false. The member received store credits which she used to purchase other non-therapeutic products such as shoes. The member entered into a payment agreement with the facility to pay back the \$2,150.00 and received a five-day unpaid suspension. The penalty included an oral reprimand, a 3-month suspension of the member's certificate of registration, 2 meetings with a Regulatory Expert and 12 months of employer notification.

*CNO v. Lee* (Discipline Committee, 2022): In this case, the hearing proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. The member made false benefit claims in the amount of \$2,315.00 through her employee group benefit plan for massage therapy and shoe modifications and signed documents she knew or ought to have known were false. The member received a five-day unpaid suspension and entered into a payment agreement to pay back the \$2,315.00. The penalty included an oral reprimand, a 3-month suspension of the member's certificate of registration, 2 meetings with a Regulatory Expert and 12 months of employer notification.

Submissions were made by the Member's Counsel.

The Member's Counsel asked the Panel to accept the Joint Submission on Order and expressed the Member's remorse for her behaviour.

### **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 3 months of the date that this Order becomes final.
2. The Executive Director is directed to suspend the Member's certificate of registration for 3 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 a practicing class.
3. The Executive Director is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:
  - a) The Member will attend 2 meetings with a Regulatory Expert (the "Expert"), at the Member's own expense and within 6 months from the date that this Order becomes final. To comply, the Member is required to ensure that:
    - i. The Expert has expertise in nursing regulation and has been approved by CNO in advance of the meetings;

- ii. At least 5 days before the first meeting, or within another timeframe approved by the Expert, the Member provides the Expert with a copy of:
  - 1. the Panel's Order,
  - 2. the Notice of Hearing,
  - 3. the Agreed Statement of Facts,
  - 4. this Joint Submission on Order, and
  - 5. if available, a copy of the Panel's Decision and Reasons;
- iii. Before the first meeting, the Member reviews the following CNO publications and completes the associated Reflective Questionnaires, online learning modules and decision tools (where applicable):
  - 1. *Code of Conduct*,
  - 2. *Professional Standards*, and
  - 3. *Ethics*;
- iv. At least 5 days before the first meeting, or within another timeframe approved by the Expert, the Member provides the Expert with a copy of the completed Reflective Questionnaires;
- 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 patients, colleagues, profession and self,
  - 3. strategies for preventing the misconduct from recurring,
  - 4. the publications, questionnaires and modules set out above, and
  - 5. the development of a learning plan in collaboration with the Expert;
- vi. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards their report to CNO, 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 the Member's 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 the Member's certificate of registration;
  - b) For a period of 12 months from the date the Member returns to the practice of nursing, the Member will notify the Member's employer(s) of the decision. To comply, the Member is required to:
    - i. Inform any employer of the decision prior to commencing or prior to resuming employment in any nursing position;
    - ii. Ensure that CNO 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;
    - iii. Provide the Member's 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;
    - iv. 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 CNO, in which it will confirm:
      - 1. that they received a copy of the required documents, and
      - 2. that they agree to notify CNO immediately upon receipt of any information that the Member has breached the standards of practice of the profession.
- 4. All documents delivered by the Member to CNO, the Expert or the Member's 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 proposed penalty provides for general deterrence through the 3-month suspension of the Member's certificate of registration, which sends a strong message to the membership that this misconduct will not be tolerated. The penalty provides for specific deterrence through the oral reprimand and the 3-month suspension of the Member's certificate of registration, which will impress upon the Member the facts of her misconduct. The 2 meetings with a Regulatory Expert will provide reflection for the Member and allow for rehabilitation and remediation and the 12 months of employer notification will provide for an extra period of monitoring to ensure public protection.

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.