

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

PANEL:	Karen Laforet, RN	Chairperson
	Sylvia Douglas	Public Member
	Mary MacNeil, RN	Member
	Donna May, RPN	Member

BETWEEN:

COLLEGE OF NURSES OF ONTARIO)	<u>DOUGLAS MONTGOMERY</u> for
)	College of Nurses of Ontario
- and -)	
)	
LEILA ANDREE SHENOUDA)	<u>PHILIP ABBINK</u> for
Registration No. 0467548)	Leila Andree Shenouda
)	
)	<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 Leila Andree Shenouda (the “Member”) as stated in the Notice of Hearing dated March 7, 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 Princess Margaret 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 Princess Margaret 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 Princess Margaret 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 at Princess Margaret 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 Princess Margaret 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. Leila Andree Shenouda (the "Member") registered with the College of Nurses of Ontario ("CNO") as a Registered Nurse ("RN") in the General Class on August 4, 2004.
2. At the time of the incidents described below, the Member was employed as an RN at Princess Margaret Hospital, located in Toronto, Ontario (the "Facility").

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. To submit a benefit claim, members of the Benefit Plan would 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 or services were received as claimed and that "the information provided for this claim is true and complete".

INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT

5. Between January 2015 and February 2015, the Member submitted two claims through a service provider called Downtown Wellness and Foot Care. The total value of these claims amounted to \$3,050.00, and included claims for compression stockings, custom-made foot orthotics, and shoe modifications.
6. In 2017 and 2018, Sun Life and the Facility conducted a review of claims submitted through Downtown Wellness and Foot Care due to irregular and suspicious patterns of claims submitted by the Facility's employees. The Hospital sent emails to staff encouraging them to come forward if they had used their benefits inappropriately.
7. The Member voluntarily came forward and was interviewed by the Facility on August 21, 2018. She acknowledged inappropriate use of the benefits plan, and the Facility concluded that the Member received payments in the form of store credits for products that were not received.

8. The Member admits that she did not receive the shoe modifications as claimed, and instead received three pairs of shoes. The value of the shoe modification claims amounted to \$750. The Member paid the Facility restitution and received a five-day suspension without pay.
9. If the Member were to testify, she would say that she is deeply sorry that this happened, and she would assure the Discipline Committee that she would not engage in any such conduct in the future.

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 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 8 and 11 to 17 above.
19. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 2 of the Notice of Hearing in that she misappropriated property from a workplace, as described in paragraphs 5 to 8 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 8 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 8 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 8 and 11 to 17 above.

Submissions on liability were made by College Counsel.

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

With regard to allegation #1, the Panel has been provided with the College's *Professional Standards* and the *Ethics* Standard. The Member has admitted that these standards were breached which provides a basis for making findings of professional misconduct.

With regard to allegation #5, College Counsel submitted that the Member's conduct was relevant to the practice of nursing since it was through her employment as a Registered Nurse ("RN") that she obtained access to the Princess Margaret Hospital's (the "Facility") employee group benefit plan (the "Benefit Plan"). College Counsel submitted that members of the profession would regard the Member's conduct as unprofessional and dishonourable as her conduct was a departure from the conduct expected of nurses. The Member failed to act with integrity and uphold the trust of the public. Dishonourable conduct also involves a moral failing, and the Member's repeated acts of dishonesty represent such a moral failing. Conduct that is disgraceful is reserved for the most serious conduct that brings the profession into disrepute. In this case, the Member has not admitted that her conduct is disgraceful, but she has admitted the conduct was unprofessional and dishonourable. The College is only seeking a finding of unprofessional and dishonourable conduct and not seeking a finding of disgraceful conduct.

College Counsel submitted to the Panel for review *CNO v. Verde-Balayo* (Discipline Committee, 2021). This was the first decision from the Discipline Committee regarding similar conduct. In that case, the panel concluded that conduct of this nature is unprofessional and dishonourable but not disgraceful.

College Counsel asked the Panel to make findings on all allegations.

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

The Member's Counsel submitted that the Member provided a plea that was voluntary, informed and unequivocal. Paragraphs 5-9 of the Agreed Statement of Facts set out the conduct to which the Member is admitting - i.e. a value of \$750.00 of inappropriate insurance claims. Paragraphs 18-22 also sets out the Member's admissions to the misconduct as alleged in the Notice of Hearing. The case before this Panel is similar to *Verde-Balayo* where the panel in that case found the member's conduct was misconduct on all 5 grounds and characterized the conduct as unprofessional and dishonourable.

The Member's Counsel submitted that the Panel is being asked to find breaches of the College's standards. Paragraphs 11-17 in the Agreed Statement of Facts describes the breaches. The Member's admissions to the allegations are found in paragraphs 18-22 in the Agreed Statement of Facts. Allegation #5 is framed disjunctively and the Member is only admitting to conduct that is unprofessional and dishonourable. Disgraceful conduct is a more serious finding and often used in instances of moral turpitude, which is not the case here and the Member is not admitting to disgraceful conduct. The Member's Counsel submitted that the facts support the plea and the admissions as set out in the Agreed Statement of Facts.

Decision

The College bears the onus of proving the allegations in accordance with the standard of proof, that being the balance of probabilities based upon clear, cogent and convincing evidence.

Having considered the evidence and the onus and standard of proof, the Panel finds that the Member committed acts of professional misconduct as alleged in paragraphs 1, 2, 3, 4 and 5 of the Notice of Hearing. As to allegation #5, the Panel finds that the Member engaged in conduct that would reasonably be regarded by members of the profession to be unprofessional and dishonourable.

Reasons for Decision

The Panel considered the Agreed Statement of Facts and the Member's plea and finds that this evidence supports findings of professional misconduct as alleged in the Notice of Hearing.

Allegation #1 in the Notice of Hearing is supported by paragraphs 5-8 and 11-18 in the Agreed Statement of Facts. The Member voluntarily responded to a request from the Facility to come forward if the Benefit Plan had been used inappropriately. The Member came forward and acknowledged her inappropriate use of the Benefit Plan. The Member admitted to submitting false claims through the Facility's Benefit Plan between January 2015 and February 2015 and to receiving payments in the form of store credits in relation to those false claims which she used toward three pairs of shoes instead of the shoe modifications that were claimed. The value of the shoe modification claims amounted to \$750.00. The College's *Professional Standards* require nurses to be truthful, have integrity and conduct themselves in a way that ensures respect for the nursing profession. The *Ethics* Standard also requires nurses to be truthful and act without intending to deceive. The Member failed to meet these standards when she submitted false claims under the Facility's Benefit Plan.

Allegation #2 in the Notice of Hearing is supported by paragraphs 5-8 and 19 in the Agreed Statement of Facts. The Member admitted to misappropriating property from the Facility when she submitted false claims through the Facility's Benefit Plan and received payment in the form of store credits for those false claims and then used the credit toward three pairs of shoes rather than the shoe modifications that were claimed. Receiving payment in the form of store credits with respect to false benefit claims constitutes misappropriation of property.

Allegation #3 in the Notice of Hearing is supported by paragraphs 5-8 and 20 in the Agreed Statement of Facts. The Member admitted to falsifying a record relating to her practice when she submitted false claims to the Facility's Benefit Plan for shoe modifications that she did not receive. The Member, as an RN employee of 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. When the Member submitted the medical expense claim form to the Facility's Benefit Plan, she had to sign and certify that all goods or services were received as claimed and that "the information provided for this claim is true and complete". 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 4-8 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 or services were received as claimed and that "the information provided for this claim 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 the 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 4-8, 11-17 and 22 in the Agreed Statement of Facts. The Panel finds that the Member's conduct in submitting false claims under the Facility's Benefit Plan was clearly relevant to the practice of nursing and was unprofessional as it demonstrated a serious and persistent disregard for her professional obligations as the Member failed to meet the College's *Professional Standards* and the *Ethics Standard*.

The Panel also finds that the Member's conduct was dishonourable. It demonstrated an element of dishonesty and deceit and showed an element of moral failing. The Member knew or ought to have known that her conduct was unacceptable and fell below the standards of a professional.

Penalty

College Counsel and the Member'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 2 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

Submissions were made by College Counsel.

College Counsel asked the Panel to accept the Joint Submission on Order. College Counsel submitted that the Panel is required to accept the Joint Submission on Order unless the terms were contrary to the public interest or the penalty no longer met the goals of penalty. College Counsel submitted that the Joint Submission on Order presented to the Panel will further the public interest, appropriately consider the aggravating and mitigating factors of the case, meet the objectives of penalty and is consistent with prior decisions of the Discipline Committee.

The aggravating factors in this case were:

- The Member's conduct represents serious dishonesty at the expense of an employer funded benefit plan;
- The Member showed not a single lapse of judgement, but acted inappropriately twice over 2 months; and
- The misconduct represents the Member taking advantage of the trust the Facility had in her regarding the Benefit Plan.

The mitigating factors in this case were:

- The Member made restitution in the amount of \$750.00;
- The Member voluntarily came forward to the Facility and took responsibility;
- The Member would express her remorse if she was to testify;
- The Member has taken responsibility with the College by admitting to the allegations and entering into an Agreed Statement of Facts and a Joint Submission on Order with the College;
- The Member's admissions save the expense of a protracted hearing; and
- The Member has been practicing since 2004 with no prior disciplinary history with the College.

College Counsel submitted that the Joint Submission on Order meets the goals of penalty to protect the public, maintain high professional standards within the profession and enhance public confidence in the College's ability to regulate nurses. The elements of penalty also address specific and general deterrence and provide for rehabilitation and remediation.

The proposed penalty provides for specific deterrence through the oral reprimand and the 2-month suspension of the Member's certificate of registration, which will help the Member gain greater understanding of how her actions are perceived by members of the profession and the public and sends a strong signal to the Member that this type of conduct is unacceptable.

The proposed penalty provides for general deterrence through the 2-month suspension of the Member's certificate of registration, which is meant to deter other members of the profession from participating in similar conduct and will send a message that inappropriate use of employee benefits is not acceptable. General deterrence is pronounced in the benefit fraud cases as there is indication of a systemic issue which requires the College to respond with a clear message.

The proposed penalty provides for remediation and rehabilitation through the 2 meetings with a Regulatory Expert and review of the College's publications. These activities will help the Member return to an ethical practice expected of nurses.

Overall, the public is protected through the 12 months of employer notification, which adds an additional layer of oversight on the Member's return to practice.

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): This case was a test case to establish a precedent regarding the benefit cases and proceeded by way of an Agreed Statement of Facts and a Partial Joint Submission on Order. The panel in this case included various factors in its decision that were considered when deciding penalty for similar misconduct. The misappropriation of employee benefits totalled \$7,982.50. 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. Vallega (Discipline Committee, 2022): This case proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. The member submitted false benefit claims in the amount of \$575.00. The Member made restitution and received a five-shift suspension. The penalty included an oral reprimand, a 2-month suspension of the member's certificate of registration, 2 meetings with a Regulatory Expert and 12 months of employer notification.

CNO v. Lagrimas-Mendiola (Discipline Committee, 2022): This case proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. The member submitted false

benefit claims in the amount of approximately \$750.00. The member made restitution. The penalty included an oral reprimand, a 2-month suspension of the member's certificate of registration, 2 meetings with a Regulatory Expert and 12 months of employer notification.

College Counsel submitted that the Panel should accept that the penalty being sought in this case is within the range of penalties ordered for similar misconduct.

Submissions were made by the Member's Counsel.

The Member's Counsel submitted that the *Vallega* and *Lagrimas-Mendiola* cases reflect a similar amount of misappropriation and in each case, restitution was made. In the *Verde-Balayo* case the larger amount of misappropriation and lack of restitution was a distinguishing factor that contributed to a longer suspension. In the case before this Panel, the Member came forward to the Facility and through the process admitted to her misconduct, acknowledged her mistake and accepted responsibility. The fact that the Member is attempting to make amends is a favorable indicator toward rehabilitation. Additionally, a plea saves the College time and expense. In paragraph 9 of the Agreed Statement of Facts, the Member also expressed remorse and that she would not engage in any such conduct in the future. The Member's Counsel submitted that the Joint Submission on Order is within an appropriate range of penalty.

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 2 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. Specifically, the oral reprimand and the 2-month suspension of the Member's certificate of registration provides for specific deterrence. The 2-month suspension of the Member's certificate of registration provides for general deterrence. The 2 meetings with a Regulatory Expert will allow for rehabilitation and remediation and the 12 months of employer notification will ensure the public is protected.

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 on behalf of the Chairperson and members of the Discipline Panel.