

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

<b>PANEL:</b>	Sherry Szucsko-Bedard, RN	Chairperson
	Sylvia Douglas	Public Member
	Terry Holland, RPN	Member
	Natalie Montgomery	Public Member
	George Rudanycz, RN	Member

**BETWEEN:**

COLLEGE OF NURSES OF ONTARIO	)	
	)	<u>EMILY LAWRENCE</u> for
- and -	)	College of Nurses of Ontario
	)	
	)	
RALPH TUGADE	)	<u>NO REPRESENTATION</u> for
Registration No.: AA780682	)	Ralph Tugade
	)	
	)	
	)	<u>CHRISTOPHER WIRTH</u>
	)	Independent Legal Counsel
	)	
	)	Heard: September 2, 2020

**DECISION AND REASONS**

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) of the College of Nurses of Ontario (the “College”) on September 2, 2020, via videoconference.

As Mr. Tugade (the “Member”) was not present, the hearing recessed for 15 minutes to allow time for the Member to appear. Upon reconvening the Panel noted that the Member was not in attendance.

College Counsel provided the Panel with evidence that the Member had been sent the Notice of Hearing, (Exhibit 1), on July 21, 2020. The Panel received an affidavit (Exhibit 2) from [College Staff Member], prosecutions clerk, dated July 21, 2020. In the affidavit, [College Staff Member] affirmed that she sent correspondence on July 20, 2020 to the Member’s last known address on the College Register.

The Panel was satisfied that the Member had received adequate notice of the time, place and purpose of the hearing and of the fact that if he did not attend it, the Panel may proceed in his absence. The Panel therefore proceeded with the hearing in the Member's absence.

### **The Allegations**

The allegations against the Member as stated in the Notice of Hearing dated June 11, 2020 are as follows:

#### **IT IS ALLEGED THAT:**

1. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*, S.O. 1991, c. 32, as amended, and defined in subsection 1(15) of *Ontario Regulation 799/93*, in that 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 June 2011, you provided your employer, Villa Forum Long Term Care Centre (the "Facility"), with a Criminal Records Check which did not list an outstanding charge of assault contrary to section 266 of the *Criminal Code of Canada*.
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(37) of *Ontario Regulation 799/93*, in that 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 June 2011, you provided your employer, the Facility, with a Criminal Records Check which did not list your outstanding charge of assault contrary to section 266 of the *Criminal Code of Canada*.

### **Member's Plea**

Given that the Member was not present nor represented, he was deemed to have denied the allegations in the Notice of Hearing. The Hearing proceeded on the basis that the College bore the onus of proving the allegations in the Notice of Hearing against the Member.

### **Overview**

The Member registered with the College as a Registered Practical Nurse ("RPN") on January 4, 2011. The Member's certificate of registration is currently expired for non-payment of fees since March 2019.

The Member was offered a casual RPN position at Villa Forum Long Term Care Centre ("the Facility") on June 7, 2011. A condition of the offer of employment included a Criminal Record Check/Vulnerable Persons Search with a satisfactory result. It is alleged that the Member submitted a clear Criminal Record Check to the employer, while having an impending criminal charge on his record. On January 30, 2011, the Member was charged with committing, on or about January 28,

2011, common assault on his then wife. While the charges were pending, the Member was hired by the Facility, and did not disclose this information.

College Counsel submitted that the Member's Criminal Record Check pre-dated the criminal charge but that the Member should have ensured the document included the recent criminal charge. The charge was later withdrawn in November 2011; the fact that the charge was eventually withdrawn had no impact on the allegations or decision of the Panel.

The key issues for the Panel to consider are as follows:

- a) Did the Member issue a document that he knew or ought to have known contained a false or misleading statement, and in particular, did he provide the employer with a Criminal Record Check which did not list an outstanding charge of assault?
- b) Did the Member engage in conduct that would be reasonably regarded by members of the profession as disgraceful, dishonourable, or unprofessional?

The Panel heard from two witnesses and received ten exhibits. As a result of its factual findings, the Panel found the Member committed professional misconduct by issuing a document that he knew or ought to have known contained a false or misleading statement and engaged in conduct relevant to the practice of nursing that would be regarded by members of the profession to be disgraceful, dishonourable, and unprofessional.

### The Evidence

#### Witness 1 - [Witness A], Investigator, College of Nurses of Ontario

[Witness A] was solemnly affirmed.

[Witness A] has been employed by the College since 2008 and holds the position of investigator on the Professional Conduct team. As such, her role is to investigate cases that have been brought to the College. [Witness A] stated that she is familiar with the Member and has investigated two or three cases in the past involving the Member. The current case was brought forward in 2018 by the Member's former spouse and the information was that the Member had provided false information to an employer in 2011 and failed to notify the employer that there was a criminal charge against him at that time.

[Witness A] stated, during the course of the investigation, that she spoke to witnesses including the Member's former spouse and current spouse and received relevant documents from the court and from the Member's former employer.

The Certified copy of Information for the Member dated January 31, 2011 (Exhibit 3) shows that, on January 28, 2011, the Member was charged with assault and that the charge was later withdrawn on November 7, 2011. [Witness A] explained that the date stamps and notes on the document are specific to the dates that the Member appeared before the court related to the criminal matter. The witness further indicated that bail conditions were imposed on the Member, as seen in the Recognisance of Bail document attached with the Certified copy of Information.

Finally, [Witness A] referred to the College's Public Register Report (Exhibit 4) and confirmed that the information was accurate, indicating the Member initially registered with the College on January 4, 2011 and his current registration status is expired.

Witness 2 - [Witness B], Co-Director of Care, Villa Forum Long Term Care Home

[Witness B] stated that she has been a Registered Nurse with the College since 1978. She has worked at the Facility since November 2007, initially in the role of Assistant Director of Care and, since 2010, as Co-Director of Care. [Witness B] confirmed that the Member was a staff member at the Facility from when he applied on May 30, 2011 until December 2011.

[Witness B] explained that it was her role to hire the Member in 2011 and that she was involved in the interview process and job offer. She explained that there is a two-step process involved in hiring RPNs to the Facility, including a reference check. If the candidate is successful, other checks are required, including a tuberculosis test and a Criminal Record Check. [Witness B] confirmed that she followed the usual process when hiring the Member and stated the Criminal Record Check is a safeguard to ensure that there is no criminal history, and the candidate is cleared to work within the elderly and vulnerable sector. The Member submitted his Criminal Record Check (Exhibit 5) to reception at the Facility who then sent it to [Witness B]. The document was provided by the Member at the time between his interview with the Facility and the job offer. [Witness B] affirmed that when she reviewed the document, she understood that there were no criminal charges against the Member.

[Witness B] stated that the Member's, "clean Criminal Record Check", played a significant role in the Member being hired, as it was a requirement of employment. She stated that it was only in the last two to three years, when she was notified by the College, that she learned that the Member had been charged with assault.

[Witness B] next referred to the Villa Forum Job Offer letter, (Exhibit 6). [Witness B] explained that the Job Offer letter is discussed with all new hires and was reviewed with the Member when he was offered a Casual RPN position on June 7, 2011. [Witness B] received the Criminal Record Check prior to the job offer and stated that it is an expectation that if any employee has any criminal charges pending, they should self-disclose this information.

According to [Witness B], the Member worked at the Facility for five-six months when his employment was terminated during the probationary period. The Member did not ever disclose that he had any criminal charges pending.

A member of the Panel questioned the witness as to the period of which the Criminal Record Check is accepted. [Witness B] stated that the document must be received prior to orientation and that they would accept a Criminal Record Check back to six months prior to hiring.

## **Final Submissions**

College Counsel made closing submissions on the evidence and reminded the Panel that the College is not relieved of its burden of proof simply because the Member did not appear. College Counsel stated that the Member has not contested the evidence or provided an alternate narrative, thus, there is no competing evidence, which should be a significant factor in the Panel's decision.

College Counsel submitted that the two witnesses were credible and reliable, and although the events occurred in 2011, the evidence of both witnesses were consistent with the documents created at the time.

The College was seeking findings of professional misconduct on the two allegations related to the Member.

1. The Member signed or issued a document that he knew was false when he did not disclose his criminal charge. The Facility, which provides care to a vulnerable population, relied on this document to employ the Member. College Counsel submitted that filing a Criminal Record Check as a condition of employment is considered issuing a document in one's professional capacity. In this case, doing so resulted in the Member, by omission, issuing a document which contained a false and misleading statement.
2. The second allegation relates to the Member's conduct being reasonably regarded by members of the profession to be dishonourable, disgraceful, and unprofessional. Ethical behaviour and honesty are expected of members of the nursing profession.

College Counsel provided the Panel with the College's *Professional Standards*, (Exhibit 7), and drew attention to the Ethics section in the document. College Counsel submitted that the Member failed to demonstrate integrity, honesty, and professionalism when he engaged in active dishonesty. The Member's conduct is unprofessional because he demonstrated a serious disregard for his professional obligations.

College Counsel further submitted that the Member's conduct has elements of moral failing, constituting disgraceful conduct. Such behaviour shames the profession and casts doubt on the Member's ability to discharge the higher obligations the public expects professionals to meet.

Further, College Counsel alleged that the Member acted with dishonesty, and did so to benefit himself. The Member knew or ought to have known that issuing a Criminal Record Check that was inaccurate was dishonourable and deceitful.

## **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 has committed acts of professional misconduct as alleged in paragraph #1 in the Notice of Hearing. As to allegation #2, the Panel finds that the Member engaged in conduct that would

reasonably be considered by members of the profession as disgraceful, dishonourable, and unprofessional.

### **Reasons for Decision**

College Counsel presented two witnesses and 10 exhibits, including the College's *Professional Standards* on Ethics (Exhibit 7).

The Panel assessed the credibility of the witnesses and found the evidence of each witness to be clear, cogent and convincing. Their testimony was supported by documentary evidence. The witnesses had good recall, were consistent in their testimony and were found to be honest and forthright. Neither witnesses had a vested interest in the outcome of the hearing. Both [Witness A] and [Witness B] were found to be credible.

With respect to allegation #1, the Panel found that the Member committed professional misconduct when he issued a document that he knew or ought to have known contained a false and misleading statement. In particular, he provided the employer with a Criminal Records Check which did not list that he had an outstanding charge of assault contrary to section 266 of the *Criminal Code of Canada*.

The Facility took the Member at his word, in good faith, when he submitted the Criminal Record Check which pre-dated the criminal charges against him. The Member had an opportunity to self-disclose the criminal charge during the time that he was on probation at the Facility. He failed to do so. Indeed, the Facility only learned of the Member's criminal charge years later. The Panel further reflected on the *Professional Standards* on Accountability and found the Member did not demonstrate responsibility for his actions, nor did he conduct himself in a manner that promotes respect for the profession.

With respect to allegation #2, the Panel found that the Member engaged in conduct that would reasonably be regarded by members of the profession as disgraceful, dishonourable, and unprofessional when he knowingly submitted the Criminal Record Check which did not include the recent criminal assault charge. This behaviour demonstrated poor judgement, dishonesty, and a serious disregard of his professional obligations. The Member's conduct further demonstrated an element of moral failing and fell below the standards and principles of the nursing profession that include "*acting with integrity, honesty, and professionalism in all dealings with the client and other health care team members.*" The fact that the Member was aware of the omission of the criminal charge casts serious doubt on the Member's moral fitness and inherent ability to discharge the higher obligations the public expects professionals to meet.

### **Penalty**

College Counsel called one witness, [Witness C], on the issue of penalty.

[Witness C] is an employee of the College. As part of her role at the College as a Monitoring Administrator, she administers, and ensures, that members are fulfilling undertakings, as ordered by the Inquiries, Complaints and Reports Committee ("ICRC") and other College committees.

[Witness C] stated that she had reviewed the Member's registration history as contained within the Member's public register information, (Exhibit 4) and gave evidence concerning the following.

- From January 4, 2011 to August 2, 2017, the Member was entitled to practice with no restrictions.
- From August 2, 2017 to October 25, 2018, the Member was suspended by the ICRC, pending the outcome of an investigation involving sexual abuse. On March 15, 2018, the Member was ordered to attend before the ICRC and was issued a caution with respect to the following College standards and/or guidelines: *Professional Standards*, *Therapeutic Nurse-Client Relationship*, and *One is One Too Many* (Exhibit 8). The Member attended before the ICRC on July 18, 2018 and completed the remedial activities.
- Concurrent to the ICRC order, a second investigation related to sexual abuse was referred to the College's Discipline Committee. From March 2013 to December 2016, the Member worked for two different organizations and was terminated from both positions. College Counsel directed the Panel to *CNO v. Tugade* (2018) (Exhibit 9), in which there were similar allegations related to a breach of professional boundaries. In this case, the Member was found guilty of professional misconduct and a penalty was imposed by the Discipline Committee, which included: an oral reprimand; a five-month suspension; and terms, conditions and limitations were placed on his certificate of registration, including two meetings with a Nursing Expert in order to complete remedial activities; and an 18-month employer notification.

When asked if the Member completed all the orders of the October 2018 penalty, [Witness C] explained that the Member:

- Attended for the oral reprimand.
- Did not complete his remedial activities with the Nursing Expert. He had six months to do so, but he did not fulfill the requirements.
- Served only a portion of the five-month suspension and there are 34 days that were not served.
- Did not complete the 18-month employer notification.
- The Member's suspension took effect on October 25, 2018. The renewal of his certificate was due at the end of the year and the Member did not pay his fees; therefore, the College imposed an interim suspension at that time. The Member has not paid his fees that were due, and his certificate has since expired.

[Witness C] explained that when a member only serves a portion of their suspension, and then is administratively suspended, the outstanding order applies when the member reapplies and returns to the general class. [Witness C] referred to the College's Public Register (Exhibit 4) and confirmed that the Member has still not paid the fees and his certificate remains expired.

### **Penalty Submissions**

College Counsel submitted that, in view of the Panel's findings of professional misconduct, it should 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 8 months. This suspension shall take effect from the date the Member obtains an active certificate of registration in a practicing class and after the Member completes the suspension from the Discipline Committee Order dated October 25, 2018 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 his own expense and within 6 months from the date the Member obtains an active certificate of registration in a practicing class. To comply, the Member is required to ensure that:
    - i. The Expert has expertise in nursing regulation and has been approved by the Director, Professional Conduct (the "Director") in advance of the meetings;
    - ii. At least 7 days before the first meeting, the Member provides the Expert with a copy of:
      1. the Panel's Order,
      2. the Notice of Hearing, and
      3. 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, decision tools and online participation forms (where applicable):
      1. *Code of Conduct*, and
      2. *Professional Standards*;
    - iv. At least 7 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 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 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 his behaviour;
- vii. If the Member does not comply with any 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 his certificate of registration;
- b) For a period of 24 months from the date the Member returns to the practice of nursing, the Member will notify his 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 his employer(s) with a copy of:
    1. the Panel's Order,
    2. the Notice of Hearing, and
    3. 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
4. All documents delivered by the Member to CNO, the Expert or the employer(s) will be delivered by verifiable method, the proof of which the Member will retain.

College Counsel submitted that the proposed penalty meets all of the goals of penalty, and is in the interest of the public, the profession and the Member. Protection of the public is covered by all the elements of the penalty, including the 24-month employer notification, and maintains public confidence that the profession is able to self-regulate. Specific and general deterrence are provided through the eight-month suspension and reprimand. Remediation and rehabilitation are provided through the terms, conditions, and limitations on the Member's certificate of registration including meeting with the Nursing Expert. College Counsel stated that the penalty should balance the seriousness of the conduct and any aggravating and mitigating factors.

### **Aggravating Factors**

The Member has not attended this hearing nor taken part in the College process. This leaves the Panel with no information with regard to mitigating factors or circumstances it may have considered if the Member had participated. College Counsel explained that the Panel cannot increase the penalty due to the Member's failure to participate, but can consider that it does not have any mitigating factors presented by the Member.

Aggravating factors include:

- The Member issued the Criminal Record Check which was misleading and did so intentionally in order for him to retain a nursing position;
- The Member's actions were very serious and for his own personal gain;
- The Member's actions bring discredit to the profession. A nurse does not conduct themselves in this manner.

College Counsel submitted that the Member's actions require a significant regulatory response that meets the goals of deterrence. The lengthy suspension will deter the Member from this sort of conduct when he returns to practice and will send a message to the profession and to the public that this conduct will not be tolerated. Remediation and rehabilitation are met through meetings with a Nursing Expert, giving the Member the opportunity for insight and reflection. The employer notification also provides additional opportunities for the Member's practice to be monitored and supervised by future employers.

College Counsel submitted cases to the Panel to demonstrate how other panels of the Discipline Committee dealt with similar conduct.

*CNO v. Holmgren* (Discipline Committee, 2018) involved dishonest acts similar to this matter and allegations where the member was found guilty of offences relevant to suitability to practice. In the *Holmgren* case, the member failed to report criminal charges to the College and he issued false academic credentials and false experience in a job application. This was not the first time that the

member had misrepresented his experience. In this case, the member jointly submitted that his certificate should be revoked, and he should receive an oral reprimand. This case demonstrated that the College takes conduct involving falsification and dishonesty very seriously.

*CNO v. Richer* (Discipline Committee 2019) is a case in which the member engaged in similar conduct which involved providing false information to an employer. The member charged personal transactions, without permission, on a credit card. The member did not participate in the hearing and the penalty included an oral reprimand, a 10-month suspension, two meetings with a nursing expert and employer notification for a 24-month period from the date the member returned to the practice of nursing.

College Counsel stated that while the *Holmgren* and *Richer* cases involve suitability to practice, both also include other acts of dishonesty and demonstrate there is a range of appropriate penalties in such circumstances. In this case, the sole allegation is related to dishonesty with the Criminal Record Check and the eight-month suspension is appropriate.

College Counsel reminded the Panel that the Member has a discipline history with the College. The events in the first two discipline cases related to events in 2014 and 2016, which followed the 2011 period of this case. The penalty proposal in this matter demonstrates progressive discipline, in which members are expected to learn from previous cases. College Counsel submitted that the suspension would have been higher, had the Member's conduct happened in 2020. The Member has failed to satisfy past orders in that he has not met with the nursing expert and has allowed his certificate to lapse. Regarding failure to satisfy past orders, this Member should receive a lengthier suspension in order for him to understand the seriousness of this case.

College Counsel reminded the Panel that they cannot use the Member's non-attendance at the hearing as a basis to increase the penalty and stated that, in the public interest, the penalty would maintain public confidence in the College's discipline process.

College Counsel submitted that the proposed penalty reflects the seriousness of the Member's conduct. The proposed penalty is appropriate, takes into account the aggravating and mitigating circumstances, properly reflects the goals of penalty and is consistent with other similar decisions.

### **Penalty Decision**

The Panel accepts the College's 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 8 months. This suspension shall take effect from the date the Member obtains an active certificate of registration in a practicing class and after the Member completes the suspension from the Discipline Committee Order dated October 25, 2018 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 his own expense and within 6 months from the date the Member obtains an active certificate of registration in a practicing class. To comply, the Member is required to ensure that:
    - i. The Expert has expertise in nursing regulation and has been approved by the Director, Professional Conduct (the "Director") in advance of the meetings;
    - ii. At least 7 days before the first meeting, the Member provides the Expert with a copy of:
      1. the Panel's Order,
      2. the Notice of Hearing, and
      3. 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, decision tools and online participation forms (where applicable):
      1. *Code of Conduct, and*
      2. *Professional Standards;*
    - iv. At least 7 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 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 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 his behaviour;
- vii. If the Member does not comply with any 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 his certificate of registration;
- b) For a period of 24 months from the date the Member returns to the practice of nursing, the Member will notify his 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 his employer(s) with a copy of:
    1. the Panel's Order,
    2. the Notice of Hearing, and
    3. 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
4. All documents delivered by the Member to CNO, 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 confidence in the ability of the College to regulate nurses. This is achieved through a penalty that addresses specific deterrence, general deterrence, and remediation and rehabilitation.

The Member's actions violated cornerstones of the nursing profession including honesty, integrity and truthfulness. The Member knowingly submitted a Criminal Record Check, that he knew to be false and misleading, to a new employer. The Member applied for a position in a vulnerable sector, and ought to have known his position was dependent on a clear Criminal Record Check. He had ample opportunity to self-disclose this information to the employer but failed to do so. The fact that the charge was eventually withdrawn does not negate the Member's responsibility to be honest and forthright.

The Panel considered progressive discipline when they deliberated on the penalty. The Member did not fulfill the requirements of the penalty that was issued in the 2018 Discipline Hearing and he further let his certificate expire. Should the allegations before the Panel today have occurred in 2020, the penalty could have been significantly higher. According to the College's *Professional Standards* on accountability and ethics, "nurses are responsible for their actions and the consequences of those actions. They're also accountable for conducting themselves in ways that promote respect for the profession." Members of this profession are accountable for acting with integrity, honesty and professionalism at all times, not only with the client, but with other health care team members. The Member's unprofessional conduct did not promote respect and trust in the nursing profession.

The Panel concluded that the penalty is reasonable and in the public interest, and satisfies the principles of specific and general deterrence, remediation and rehabilitation, and public protection. Specific and general deterrence are met through the oral reprimand and an eight-month suspension of the Member's certificate of registration. Remediation and rehabilitation are provided through the imposition of terms, conditions and limitations on the Member's certificate of registration including two meetings with a nursing expert to review the *Professional Standards* and the *Code of Conduct*. The public is protected through the requirement of employer notification for a 24-month period from the date the Member returns to the practice of nursing.

This penalty sends a clear message to the profession about the seriousness of this type of conduct and that it will not be tolerated by the College.

The penalty falls within the range of reasonable outcomes based on previous decisions of the Discipline Committee.

I, Sherry Szucsko-Bedard, 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.