

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

PANEL:	Ingrid Wiltshire-Stoby, NP	Chairperson
	Sylvia Douglas	Public Member
	Mary MacNeil, RN	Member
	Lalitha Poonasamy	Public Member

BETWEEN:

COLLEGE OF NURSES OF ONTARIO)	<u>NICK COLEMAN</u> for
)	College of Nurses of Ontario
- and -)	
)	
ECHEL CUMBA)	<u>PHILIP ABBINK</u> for
Registration No. 0017871)	Echel Cumba
)	
)	<u>PATRICIA HARPER</u>
)	Independent Legal Counsel
)	
)	Heard: June 28, 2022

AMENDED 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 June 28, 2022, via videoconference.

The Allegations

The allegations against Echel Cumba (the “Member”) as stated in the Notice of Hearing dated May 24, 2022 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 St. Michael’s 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 2012-2016, you submitted false claims under the Facility’s employee group benefit plan (the “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 the Facility, you misappropriated property from a client or workplace, and in particular, in or around 2012-2016, you submitted false claims under the 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 the Facility, you falsified a record relating to your practice, and in particular, in or around 2012-2016, you submitted false claims under the 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 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 2012-2016, you submitted false claims under the 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 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 2012-2016, you submitted false claims under the 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:

THE MEMBER

1. Echel Cumba (the “Member”) obtained a degree in nursing from Cebu Doctors’ College in Cebu City, Philippines in 1992.
2. The Member registered with the College of Nurses of Ontario (“CNO”) as a Registered Nurse (“RN”) in the General Class on August 11, 2000.
3. Between November 20, 2000 and February 13, 2017, the Member was employed as a full-time staff nurse at St. Michael’s Hospital in Toronto (the “Facility”). Her employment was terminated as a result of the incidents described below.

THE BENEFIT PLAN

4. The Facility’s employee benefit plan (the “Benefit Plan”) is a group insurance policy which provides coverage for extended health care, dental, and other insurance benefits. The Facility is the Plan Sponsor for the Benefit Plan and funds the cost of claims paid out under the plan. SunLife Insurance (“SunLife”) administers the Benefit Plan on behalf of the Facility.
5. The Member, as an RN at the Facility represented by the Ontario Nurses’ Association (“ONA”), was a member of the Benefit Plan through the collective agreement between ONA and the Facility. The Member’s children also had coverage under the Benefit Plan.
6. In relation to extended health care, the Benefit Plan provided the Member and her family with coverage for medical equipment and supplies, among other things. In particular, the Benefit Plan provided 100% reimbursement for up to 4 pairs of support stockings annually (per person), up to a maximum of \$200/pair. To be eligible, the support stockings had to be prescribed by a physician and be medically necessary for the treatment of disease or injury.
7. The Benefit Plan also provided the Member and her family with coverage for “custom made orthopaedic shoes and modifications to shoes; custom, moulded and modifications to stock orthotics”, up to a maximum of \$500/person annually. To be eligible, the shoes and/or orthotics must have been “required for the correction of deformity of the bones and muscles and provided they are not solely for athletic use”. They must also have been prescribed by a physician, podiatrist, chiropodist or chiropractor.
8. Claims for equipment and supplies under the Benefit Plan, including support stockings, were to be submitted using a paper claim form with the receipt and prescription attached. The claim form included the following declaration to be signed by the employee submitting a claim:

Authorization and Signature

I certify that all goods and services being claimed have been received by me and/or my spouse or dependents, if applicable. **I certify that the information in this form is true and complete** and does not contain a claim for any expense previously paid for by this or any other plan. [emphasis added]

[...]

In the event there is suspicion and/or evidence of fraud and/or Plan abuse concerning this claim, I acknowledge and agree that Sun Life may investigate and that information about me, my spouse and/or dependents pertaining to this claim may be used and disclosed to any relevant organization including regulatory bodies, government organizations, medical suppliers and other insurers, and where applicable my Plan Sponsor, for the purpose of investigation and prevention of fraud and/or Plan abuse.

INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT

9. From 2012 to 2016, the Member submitted false claims under the Benefit Plan and received a total of \$4,710 in relation to the false claims.
10. In or around early 2017, the Facility and SunLife uncovered a scheme whereby employees of the Facility were submitting false benefit claims, including in relation to support stockings. The joint investigation conducted by the Facility and SunLife (the "Facility's Investigation") identified a porter at the Facility, Gener Valle ("Valle"), as the central figure in the scheme. The Facility's Investigation concluded that Valle coordinated with other Facility employees to submit false claims to SunLife for products and services that were never purchased. Valle and the employee would then split the reimbursed funds.
11. The Facility's Investigation also revealed a number of health clinics which were involved with the scheme, including the Walk Easy Clinic, located at 4465 Sheppard Avenue in Scarborough ("Walk Easy").
12. As a result of the Facility's Investigation, the Facility and SunLife interviewed the Member on February 1, 2017 in respect of claims she and her family had submitted between 2012 and 2016 for support stockings and orthotics. At the interview, the Member admitted to submitting false claims to SunLife for reimbursement under the Benefit Plan with Valle in 2014-2016. Specifically, the Member admitted that neither she nor her children purchased the support stockings listed in the receipts submitted with the claims in 2014, 2015, and 2016. The Member stated that neither she nor her children provided Valle with the prescriptions submitted in support of most of the claims. The Member stated that she did provide Valle with a prescription for herself for support stockings in 2014.

13. The Member explained that she would partially fill out the benefit claim form, sign it, and provide it to Valle. Valle would then complete the form, including the amount of the claim, attach false receipts and prescriptions, and submit the claim form to SunLife. The Member admitted that when she received the reimbursement from SunLife, she provided half of it to Valle, and kept the other half for herself. She further admitted that she received no product in return for the money.
14. The Member also admitted that she had taken part in a similar fraudulent scheme with Walk Easy in respect of the 2012 and 2013 claims. She stated that she would provide signed, partially filled out claim forms to “Olivia” from Walk Easy, who would then complete the form, attach false receipts, and submit the claim form to SunLife on the Member’s behalf. The Member stated that she provided Olivia with prescriptions in support of these claims. The Member admitted that when she received the reimbursement from SunLife, she provided 60% of the money to Olivia and kept the remaining 40% for herself. She further admitted that she received no product in return for the money.
15. The total amount paid to the Member for the claims between 2012 and 2016 was \$4,710.
16. The Facility terminated the Member’s employment on February 13, 2017 as a result of this conduct.
17. If the Member were to testify, she would express deep remorse over her actions. The Member would further testify that she recognizes her dishonesty reflects poorly on her and her profession and that she will not commit similar conduct in the future.

BENEFIT FRAUD CASES

18. To date, a total of 52 benefits fraud cases relating to 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

19. 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.

20. 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 standard 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.
21. 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

22. 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.
23. 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.
24. CNO's *Ethics Standard* also provides, in relation to truthfulness, that truthfulness means speaking and acting without intending to deceive.
25. The Member admits and acknowledges that she contravened CNO's *Professional Standards* and *Ethics Standard* when she submitted false claims under the Benefit Plan between 2012 and 2016.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

26. 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 9 to 17 and 19 to 25 above.

27. 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 9 to 17 above.
28. 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 9 to 17 above.
29. 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 9 to 17 above.
30. 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 9 to 17 and 19 to 25 above.

Submissions on liability were made by College Counsel.

College Counsel submitted the *CNO v. Verde-Balayo* (Discipline Committee, 2021) case as a similar case for the Panel to consider. In that case, with significantly similar conduct, the panel found, amongst other things, that the member's conduct constituted falsification of a record related to practice and signing or issuing in the member's professional capacity a document that the member knew was false or misleading.

College Counsel also addressed allegation #5. The Agreed Statement of Facts indicates the Member agreed that her conduct was relevant to nursing and that she admitted her conduct would reasonably be characterized by members of the profession to be dishonourable and unprofessional but not disgraceful. Unprofessional conduct is the least egregious and that it contravenes the standard of the profession. The Member has acknowledged her conduct was unprofessional. Dishonourable conduct is more egregious than unprofessional conduct and disgraceful conduct is more egregious than dishonourable conduct. Dishonourable conduct usually infers that the member knew or ought to have known her conduct was wrong. Submission of false insurance claims by the Member was an example of dishonourable conduct. Disgraceful conduct is reserved for most serious conduct such as sexual abuse of a patient. The conduct in this case does not rise to that level of disgraceful misconduct. College Counsel submitted that the Member's conduct was both unprofessional and dishonourable.

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

The Member's Counsel submitted that the \$4,710.00 of improper insurance claims were acknowledged by the Member and her formal admissions are contained within the Agreed Statement of Facts. The Member's Counsel also referenced the *Verde-Balayo* case, submitting that it was similar to the case before this Panel and the member in that case was found guilty of

professional misconduct on all five allegations. The Member also admitted to unprofessional and dishonourable conduct. The Member's Counsel directed the Panel to the Agreed Statement of Facts where evidence of the standards being breached was contained.

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 the evidence supports findings of professional misconduct as alleged in the Notice of Hearing.

Allegation #1 in the Notice of Hearing is supported by paragraphs 9 to 17 and 19 to 26 in the Agreed Statement of Facts. The Member admitted and the facts show that in collusion with Gener Valle, a porter at St. Michael's Hospital (the "Facility"), she submitted false claims under the Facility's employee group benefit plan (the "Benefit Plan") between the years of 2014 and 2016. The Member admitted that neither she nor her children purchased the support stockings listed in the receipts submitted with the claims in 2014, 2015 and 2016, nor did they obtain the prescriptions submitted in support of the claims. She admitted that when she received the reimbursement from SunLife, she provided half of it to Valle and kept the other half for herself. She further admitted that she received no product for the money. The Member also participated in a similar fraudulent scheme with Walk Easy Clinic, a health clinic in Scarborough between the years of 2012 and 2013. The Member received a total sum of \$4,710.00 in relation to the false claims she made between 2012 and 2016.

The College's *Professional Standards* indicate 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 are expected to act with trust and integrity and role model professional values and attributes. The *Ethics Standard* also states that nurses have a duty to uphold the standards of the profession and conduct themselves in a manner that reflects well on the profession. The Member failed to meet these standards when she submitted false claims under the Facility's Benefit Plan through her interactions with Mr. Valle and Walk Easy. Accordingly, the Member breached the College's *Professional Standards* and the *Ethics Standard*.

Allegation #2 in the Notice of Hearing is supported by paragraphs 9 to 17 and 27 in the Agreed Statement of Facts. The Member admitted to committing this act of professional misconduct, being the misappropriation of property. The Member misappropriated property from the Facility by submitting false claims under the Facility's Benefit Plan between 2012 and 2016 and receiving a total sum of \$4,710.00 in relation to those false claims. The Member admitted that neither she nor her family members purchased support stockings listed in the receipts submitted with the claims for 2014, 2015 and 2016 nor did they obtain prescriptions submitted as indicated in her submitted claims. The Member admitted that she did not receive any product and that she would in fact split the monetary proceeds from the false benefit claims. Receiving money with respect to false benefit claims constitutes misappropriation of property.

Allegation #3 in the Notice of Hearing is supported by paragraphs 9 to 17 and 28 in the Agreed Statement of Facts. The Member admitted to committing an act of professional misconduct, when she falsified a record related to her practice. As an RN employed at the Facility, the Member had access to the Benefit Plan which also covered her family members. Among other things the Benefit Plan provided 100% reimbursement for up to 4 pairs of support stockings annually per person up to a maximum of \$200.00/pair. The Benefit Plan also provided the Member and her family with coverage for custom made orthopaedic shoes up to a maximum of \$500.00 per person annually. Claims were to be submitted using a paper claim form with a receipt and prescription attached and be signed by the employee submitting the claim. The claim form included a declaration which was to be signed by the employee submitting the claim. The declaration read as follows "I certify that all goods and services being claimed have been received by me and/or my spouse or dependents. I certify that the information in this form is true and complete". The Member admitted to signing this form and submitting false claims, collecting a total of \$4,710.00. Accordingly, the facts support the allegation that the Member falsified a record related to her practice as an RN employee, participating in the Facility's Benefit Plan.

Allegation #4 in the Notice of Hearing is supported by paragraphs 9 to 17 and 29 in the Agreed Statement of Facts. The Member admitted to committing an act of professional misconduct, when she signed, in her professional capacity, a document that she knew or ought to have known contained a false or misleading statement. The Member signed falsified benefit claim forms for support stockings and orthotics between 2012 and 2016. In this form, a declaration statement read as follows "I certify that all goods and services being claimed have been received by me and/or my spouse or dependents. I certify that the information in this form is true and complete". The Member received an amount of \$4,710.00 due to these false claims and admitted that she would partially fill out the benefit form, sign it, and provide it to Valle. The Member admitted that neither she nor her children purchased the support stockings listed in the receipts submitted with the claims. The Member knew or ought to have known that she was misleading SunLife through the false declaration statement. Since the Member could only sign and submit the claim forms in her capacity as an RN employee, participating in the Facility's Benefit Plan, the facts support the allegation that the Member signed, in her professional capacity, a document which contained a false or misleading statement.

Allegation #5 in the Notice of Hearing is supported by paragraphs 9 to 29 in the Agreed Statement of Facts. The Panel finds that the Member's conduct in submitting false claims under the Facility's Benefit Plan over multiple years as well as her participation in the fraud scheme at Walk Easy was clearly relevant to the practice of nursing and was unprofessional as it demonstrated a serious and persistent disregard for her professional obligations. The *Professional Standards* require nurses to be accountable, truthful, have integrity and conduct themselves in a way that ensures respect for the nursing profession. The *Ethics Standard* require nurses to be truthful and act without intending to deceive. The Member ignored these standards over multiple years when she participated in the insurance fraud.

The Panel also finds that the Member's conduct was dishonourable. It demonstrated an element of dishonesty and deceit through many years of misappropriation and stealing from the Facility's Benefit Plan. Her actions exhibited an element of moral failing. The Member also knew or ought to have known that her conduct was unacceptable and fell below the standards of a professional and did not meet the professional standards the public and the College expect 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 4 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 her 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 her behaviour;

- vii. If the Member does not comply with any one or more of the requirements above, the Expert may cancel any session scheduled, even if that results in the Member breaching a term, condition or limitation on her certificate of registration;
- b) For a period of 12 months from the date the Member returns to the practice of nursing, the Member will notify her employer(s) of the decision. To comply, the Member is required to:
 - i. 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;
 - ii. Provide her employer(s) with a copy of:
 - 1. the Panel's Order,
 - 2. the Notice of Hearing,
 - 3. the Agreed Statement of Facts,
 - 4. this Joint Submission on Order, and
 - 5. a copy of the Panel's Decision and Reasons, once available;
 - iii. Ensure that within 14 days of the commencement or resumption of the Member's employment in any nursing position, the employer(s) forward(s) a report to 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 her 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 submitted that the Joint Submission on Order must be accepted unless the terms of the Joint Submission on Order would bring the administration of justice into disrepute or would not be in the public interest. That situation does not exist in this case.

College Counsel submitted an aggravating factor was that the Member's conduct undermined the trust the public has in the profession.

The proposed penalty provides for specific deterrence through the oral reprimand and the 4-month suspension of the Member's certificate of registration, which sends a message to the Member to not engage in similar conduct in the future.

The proposed penalty provides for general deterrence through the 4-month suspension of the Member's certificate of registration, which sends a message to other members of the profession to not engage in similar conduct.

College Counsel submitted that this case is one of many before the Discipline Committee that involves the same or similar benefit fraud schemes.

College Counsel submitted that in *College of Physicians and Surgeons of Ontario v. Moore* (Divisional Court, 2003), it was confirmed that general deterrence can be given particular emphasis when there is a widespread problem in the profession, such as OHIP fraud. Benefit fraud also appears to be a widespread problem in nursing and needs a proper message of deterrence.

The proposed penalty provides for rehabilitation and remediation through the 2 meetings with a Regulatory Expert. The meetings will help the Member understand the seriousness of her conduct, improve her understanding of the ramifications of her dishonest conduct and the trust expected of a member in a regulated profession as well as deter her from repeating it in the future. The meetings should also help the Member understand how her conduct, aimed to benefit her personal finances and undermines the trust the public has in the nursing profession.

Overall, the public is protected through the 12 months of employer notification, which will notify her employer that there has been a problem in the past and allow her employer to monitor her practice and to be on the watch for repeated behaviour.

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:

Verde-Balayo: In this case, the misconduct involved benefits fraud in the amount of \$7,982.50 and 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. Velasquez (Discipline Committee, 2021): In this case, the misconduct involved benefits fraud in the amount of \$11,080.00 and the member made restitution. 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.

In the case before this Panel, the Joint Submission on Order is identical to the terms in the above noted cases with the only distinction being the length of the suspension. The Member has not paid restitution and the penalty proposed is a 4-month suspension. College Counsel

submitted that the penalty was consistent with other decisions of the Discipline Committee and there should be no concerns that the administration of justice is being brought into disrepute or not in the public interest.

Submissions were made by the Member's Counsel.

The Member's Counsel submitted that the penalty in the case before this Panel is very similar to the *Verde-Balayo* case. The Member admitted her conduct as evidenced in paragraphs 12-14 in the Agreed Statement of Facts.

The Member's Counsel submitted the following mitigating factors:

- The Member expressed deep remorse for her actions per paragraph 17 of the Agreed Statement of Facts;
- The Member pled guilty to the allegations and thereby took responsibility for her conduct.
- The Member cooperated with the College during the investigation. This is the first step in remediation and saves the College time to prosecute the case; and
- The Member has no discipline history with the College.

The Member's Counsel also read from *R. v. Anthony-Cook* (Supreme Court of Canada, 2016) reminding the Panel of the terms to consider with a Joint Submission on Order. The Member's Counsel submitted the proceedings are by nature an adversarial process so the resolution by way of the Joint Submission on Order indicates an agreement has been made between the two parties and that the penalty is appropriate and consistent with case law.

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 4 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 her 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 her behaviour;

- vii. If the Member does not comply with any one or more of the requirements above, the Expert may cancel any session scheduled, even if that results in the Member breaching a term, condition or limitation on her certificate of registration;
- b) For a period of 12 months from the date the Member returns to the practice of nursing, the Member will notify her employer(s) of the decision. To comply, the Member is required to:
 - i. 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;
 - ii. Provide her employer(s) with a copy of:
 - 1. the Panel's Order,
 - 2. the Notice of Hearing,
 - 3. the Agreed Statement of Facts,
 - 4. this Joint Submission on Order, and
 - 5. a copy of the Panel's Decision and Reasons, once available;
 - iii. Ensure that within 14 days of the commencement or resumption of the Member's employment in any nursing position, the employer(s) forward(s) a report to 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 her 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 oral reprimand and the 4-month suspension of the Member's certificate of registration will provide specific deterrence. The 4-month suspension of the Member's certificate of registration will provide general deterrence. The 2 meetings with a Regulatory Expert will provide for rehabilitation and remediation and the 12 months of employer notification will ensure the public is protected with ongoing monitoring.

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

I, Ingrid Wiltshire-Stoby, NP, sign this decision and reasons for the decision as Chairperson of this Discipline Panel and on behalf of the members of the Discipline Panel.