

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

<b>PANEL:</b>	Grace Fox, NP	Chairperson
	Tim Crowder	Public Member
	Samuel Jennings, RPN	Member
	Michael Schroder, NP	Member

**BETWEEN:**

COLLEGE OF NURSES OF ONTARIO	)	<u>DOUGLAS MONTGOMERY</u> for
	)	College of Nurses of Ontario
- and -	)	
	)	
CAROLYN TRUONG	)	<u>PHILIP ABBINK</u> for
Registration No. 14048586	)	Carolyn Truong
	)	
	)	<u>KIMBERLEY ISHMAEL</u>
	)	Independent Legal Counsel
	)	
	)	Heard: June 9, 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 June 9, 2023, via videoconference.

**The Allegations**

The allegations against Carolyn Truong (the “Member”) as stated in the Notice of Hearing dated March 21, 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 reads, unedited, as follows:

#### **MEMBER**

1. Carolyn Truong (the "Member") registered with the College of Nurses of Ontario ("CNO") as a Registered Nurse ("RN") in the Temporary Class on June 6, 2014, and in the General Class on August 15, 2014.
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 which provides coverage to the Facility's 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 were required to complete a medical expense claim form provided by Sun Life. The medical expense claim form required certain information, including information on the plan member, any dependents, and the nature of the claim. By signing and submitting the claim form, the plan member certified that "all goods or services have been received" as claimed and that the information provided for in the claim was "true and complete".

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

5. Between September 2015 and December 2016, the Member submitted 2 claims through a service provider called Downtown Wellness and Foot Care ("Downtown Wellness"). The combined value of the 2 claims amounted to \$3,100. The Member claimed for products such as compression stockings, custom-made orthotics, and shoe modifications.
6. In 2017, Sun Life conducted an investigation into Downtown Wellness due to patterns of suspicious claims. The Facility initiated a review of claims submitted by its employees for services and products ostensibly received at Downtown Wellness.
7. The Facility interviewed the Member on March 1, 2018, and April 6, 2018, with regards to her claims at Downtown Wellness. The Member admitted that she had received non-medical products instead of the products as claimed. In particular, the Member

acknowledged that she had not received shoe modifications as claimed. However, the Member stated that she had in fact received one pair of compression stockings (out of the eight pairs that she had claimed), and one pair of custom-made orthotics (out of the two pairs that she had claimed).

8. The Facility determined that the Member had engaged in benefits misuse amounting to \$2,400, after deducting \$200 (the value of the one pair of compression stockings that the Member had received) and \$500 (the value of the one pair of orthotics that the Member had received).
9. The Member paid the Facility \$2,400 in restitution and received a five-day unpaid suspension.
10. If the Member were to testify, she would express her remorse, and say that she deeply regrets her actions. She would assure the Committee that she has learned from these events, and that she would not engage in any such conduct in the future.

#### **BENEFIT FRAUD CASES**

11. To date, at least 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*

12. 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.
13. 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.
14. 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

15. 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.
16. 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.
17. CNO's *Ethics* Standard also provides, in relation to truthfulness, that truthfulness means speaking and acting without intending to deceive.
18. The Member admits and acknowledges that she contravened CNO's *Professional Standards* and *Ethics* Standard.

### **ADMISSIONS OF PROFESSIONAL MISCONDUCT**

19. 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 10 and 12 to 18 above.
20. 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 10 above.
21. 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 10 above.
22. 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 10 above.

23. 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 10 and 12 to 18 above.

### **College Counsel's Submissions on Liability**

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 19-23 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, conducted a verbal plea inquiry, and received a written plea inquiry (Exhibit #2) which confirmed that the plea was voluntary, informed, and made on the advice of experienced Counsel. College Counsel submitted that based on the Agreed Statement of Facts, which specifically describes the facts in relation to the allegations, the Panel has enough evidence to find that the Member committed professional misconduct as set out in all of the allegations in the Notice of Hearing.

With respect to allegation #1, College Counsel and the Member's Counsel have placed the *Professional Standards* and the *Ethics* Standard into evidence. The Member has admitted, through the Agreed Statement of Facts, that the *Professional Standards* and the *Ethics* Standard were breached.

With respect to allegation #5, College Counsel submitted that the Member's conduct was relevant to the practice of nursing as it was through the Member's employment as an RN that she had 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 consider the Member's conduct to be unprofessional and dishonourable. The Member's conduct was unprofessional as it constituted a marked departure from the Member's professional obligations to act with honesty and integrity. The Member's conduct was dishonourable as the repeated acts of dishonesty constituted a moral failing. College Counsel submitted that the Member's conduct was not disgraceful as it did not place the reputation of the profession into disrepute.

College Counsel provided the Panel with *CNO v. Verde-Balayo* (Discipline Committee, 2021) for reference as it involved the same type of misconduct. The panel in that decision found the member committed acts of professional misconduct and found the misconduct to be dishonourable and unprofessional.

### **The Member's Counsel's Submissions on Liability**

The Member's Counsel submitted that the Panel is entitled to rely on the Agreed Statement of Facts as evidence. The Member's Counsel submitted that the Member admitted to all of the allegations in her plea and that her plea was voluntary and informed. The Member's Counsel submitted that the Member's admissions of professional misconduct are outlined in paragraphs 19-23 of the Agreed Statement of Facts. The Member's Counsel submitted that the Member has admitted that her conduct was dishonourable and unprofessional but that disgraceful conduct has an element of moral turpitude which was not present in the case before this Panel. The Member's Counsel referred the Panel to the *Verde-Balayo* case which outlines rationale for why the conduct is dishonourable and unprofessional.

### **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 4-10 and 12-19 in the Agreed Statement of Facts. The Member admitted to submitting false claims through the Facility's Benefit Plan between September 2015 and December 2016 and to receiving non-medical products in the amount of \$2,400.00 in relation to those false claims. The Facility interviewed the Member on March 1, 2018 and April 6, 2018 with respect to the claims that she had submitted. The Member admitted that she had received non-medical products instead of the claimed shoe modifications, compression stockings and custom orthotics. The Member advised the Facility that she had received one pair of compression stockings out of the 8 pairs claimed and one pair of orthotics out of the 2 that were claimed.

The College's *Professional Standards* outlines that nurses are "accountable for conducting themselves in ways that promote respect for the profession". The Member displayed a lack of respect for the profession by submitting false claims to the Benefit Plan. The College's *Ethics Standard* outlines that "Truthfulness means speaking or acting without intending to deceive". The Member intended to deceive the Facility and Sun Life by submitting false benefit claims and accepting non-medical products for her own personal gain. The Member admitted in paragraph 19 of the Agreed Statement of Facts that she contravened the *Professional Standards* and the *Ethics Standard*.

Allegation #2 in the Notice of Hearing is supported by paragraphs 4-10 and 20 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 non-medical products for those false claims. Receiving non-medical products with respect to false benefit claims constitutes misappropriation of property.

Allegation #3 in the Notice of Hearing is supported by paragraphs 4-10 and 21 in the Agreed Statement of Facts. The Member admitted to falsifying a record relating to her practice when she signed and submitted false medical expense claim forms to the Facility's Benefit Plan and certified that "all goods or services have been received" as claimed and that the information provided for in the claim was "true and complete". The Member, as an RN employed at the Facility, had access to the Benefit Plan by virtue of her employment as a nursing professional and so her actions were related to her practice as a nurse. Accordingly, the facts support the allegation that the Member falsified a record relating to her practice and did so in the context of her employment as an RN at the Facility.

Allegation #4 in the Notice of Hearing is supported by paragraphs 4-10 and 22 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 forms that required her to certify that "all goods or services have been received" as claimed and that the information provided for in the claim was "true and complete", she knew or ought to have known that she was signing a document that contained a false or misleading statement and that it was a false claim under the Facility's Benefit Plan. As noted above, the Member had access to the Facility's Benefit Plan by virtue of her employment as a nursing professional. When she signed and submitted claim forms on her behalf, she did so in her capacity as an RN employee of the Facility. Accordingly, the facts support the allegation that the Member signed or issued, in her professional capacity, a document that she knew contained a false or misleading statement.

Allegation #5 in the Notice of Hearing is supported by paragraphs 4-10, 12-18 and 23 in the Agreed Statement of Facts. The Panel finds that the Member's conduct in submitting false benefit claims was clearly relevant to the practice of nursing. It was unprofessional as it demonstrated a serious and persistent disregard for her professional obligations as set out in the *Professional Standards* and the *Ethics Standard*. The Member did not model truthfulness and respect and thus, it reflected poorly on the nursing profession.

The Panel also finds that the Member's conduct was dishonourable. It demonstrated an element of dishonesty and deceit when she submitted false claims to the Benefit Plan for her own personal gain. The Member's conduct lacked integrity, truthfulness and respect which are paramount attributes for maintaining the public's confidence in the profession. 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 3 months. This suspension shall take effect from the date that this Order becomes final and shall continue to run without interruption as long as the Member remains in a practicing class.
3. Directing the Executive Director to impose the following terms, conditions and limitations on the Member's certificate of registration:
  - a) The Member will attend 2 meetings with a Regulatory Expert (the "Expert"), at the Member's own expense and within 6 months from the date that this Order becomes final. To comply, the Member is required to ensure that:
    - i. The Expert has expertise in nursing regulation and has been approved by CNO in advance of the meetings;
    - ii. At least 5 days before the first meeting, or within another timeframe approved by the Expert, the Member provides the Expert with a copy of:
      1. the Panel's Order,
      2. the Notice of Hearing,
      3. the Agreed Statement of Facts,
      4. this Joint Submission on Order, and
      5. if available, a copy of the Panel's Decision and Reasons;
    - iii. Before the first meeting, the Member reviews the following CNO publications and completes the associated Reflective Questionnaires, online learning modules and decision tools (where applicable):
      1. *Code of Conduct*,
      2. *Professional Standards*, and
      3. *Ethics*;

- iv. At least 5 days before the first meeting, or within another timeframe approved by the Expert, the Member provides the Expert with a copy of the completed Reflective Questionnaires;
  - v. The subject of the sessions with the Expert will include:
    - 1. the acts or omissions for which the Member was found to have committed professional misconduct,
    - 2. the potential consequences of the misconduct to the Member's patients, colleagues, profession and self,
    - 3. strategies for preventing the misconduct from recurring,
    - 4. the publications, questionnaires and modules set out above, and
    - 5. the development of a learning plan in collaboration with the Expert;
  - vi. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards their report to CNO, in which the Expert will confirm:
    - 1. the dates the Member attended the sessions,
    - 2. that the Expert received the required documents from the Member,
    - 3. that the Expert reviewed the required documents and subjects with the Member, and
    - 4. the Expert's assessment of the Member's insight into the Member's behaviour;
  - vii. If the Member does not comply with any one or more of the requirements above, the Expert may cancel any session scheduled, even if that results in the Member breaching a term, condition or limitation on the Member's certificate of registration;
- b) For a period of 12 months from the date the Member returns to the practice of nursing, the Member will notify the Member's employer(s) of the decision. To comply, the Member is required to:
- i. Inform any employer of the decision prior to commencing or prior to resuming employment in any nursing position;
  - ii. Ensure that CNO is notified of the name, address, and telephone number of all employer(s) within 14 days of commencing or resuming employment in any nursing position;

iii. Provide the Member's employer(s) with a copy of:

1. the Panel's Order,
2. the Notice of Hearing,
3. the Agreed Statement of Facts,
4. this Joint Submission on Order, and
5. a copy of the Panel's Decision and Reasons, once available;

iv. Ensure that within 14 days of the commencement or resumption of the Member's employment in any nursing position, the employer(s) forward(s) a report to CNO, in which it will confirm:

1. that they received a copy of the required documents, and
2. that they agree to notify CNO immediately upon receipt of any information that the Member has breached the standards of practice of the profession.

4. All documents delivered by the Member to CNO, the Expert or the Member's employer(s) will be delivered by verifiable method, the proof of which the Member will retain.

### **Penalty Submissions**

#### **College Counsel's Submissions**

The aggravating factors in this case were:

- The Member's conduct constituted serious and persistent dishonesty and deceit;
- The Member's conduct resulted in inappropriate costs sustained by the Benefit Plan;
- The Member's conduct occurred twice over a period of just over a year;
- The Member took advantage of the trust placed in her by the Facility and the Benefit Plan; and
- The Member took advantage of the privilege of having a Benefit Plan as this is not a benefit that all nurses have access to.

The mitigating factors in this case were:

- The Member made full restitution of \$2,400.00;
- The Member has expressed her remorse;
- The Member has taken responsibility with the Facility and with the College.
- By entering into an Agreed Statement of Facts and a Joint Submission on Order with the College the Member has avoided the need for a contested hearing; and
- The Member has no prior discipline history with the College.

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

The proposed penalty provides for specific deterrence through the oral reprimand which will assist the Member with gaining an understanding of how her actions are perceived by both the public and members of the profession. Additionally, the 3-month suspension of the Member's certificate of registration will send a strong message to the Member that this type of behaviour is unacceptable.

The proposed penalty provides for general deterrence through the 3-month suspension of the Member's certificate of registration, which will send a signal to the membership that there are serious consequences for this type of misconduct. The need for general deterrence is salient given that upwards of 80 cases of benefit misuse have been referred to the Discipline Committee.

The proposed penalty provides for rehabilitation and remediation through the 2 meetings with a Regulatory Expert and the review of the College's publications. This will assist the Member with her transition to ethical nursing practice.

Overall, the public will be protected through the 12 months of employer notification, which will provide a heightened level of employer oversight on the Member's return to nursing 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): In this case, the hearing proceeded by way of an Agreed Statement of Facts and a Partial Joint Submission on Order. This case involved the member making false claims through her employee group benefit plan between 2012-2016 in the amount of \$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. Wangmo* (Discipline Committee, 2022): In this case, the hearing proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. This case involved the member making false claims through her employee group benefit plan in the amount of \$2,400.00. 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.

*CNO v. Lee* (Discipline Committee, 2022): In this case, the hearing proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. This case involved the member making false claims through her employee group benefit plan in the amount of \$2,315.00. The

member entered into a payment agreement with the facility to pay back the \$2,315.00. The penalty included an oral reprimand, a 3-month suspension of the member's certificate of registration, 2 meetings with a Regulatory Expert and 12 months of employer notification.

### **The Member's Counsel's Submissions**

The Member's Counsel agreed with the general objectives of penalty as outlined by College Counsel. The Member's Counsel submitted that he agreed that the *Wangmo* and *Lee* cases are comparable to the case before this Panel.

The mitigating factors in this case were:

- The Member admitted her misconduct when she was interviewed by the Facility;
- The Member has no prior discipline history with the College;
- The Member made restitution;
- The Member has acknowledged her mistake and accepted responsibility by entering into an Agreed Statement of Facts and a Joint Submission on Order with the College; and
- The Member has saved the College the time and expense of a contested hearing.

The Member's Counsel referred to the Supreme Court of Canada's decision in *R. V. Anthony-Cook*, 2016 SCC 43 (CanLII) and submitted that the Panel is required by law to accept the Joint Submission on Order unless it is outside of the appropriate range and would bring the administration of justice into disrepute or be contrary to the public interest.

### **Penalty Decision**

The Panel accepts the Joint Submission on Order and accordingly orders:

1. The Member is required to appear before the Panel to be reprimanded within 3 months of the date that this Order becomes final.
2. The Executive Director is directed to suspend the Member's certificate of registration for 3 months. This suspension shall take effect from the date that this Order becomes final and shall continue to run without interruption as long as the Member remains in a practicing class.
3. The Executive Director is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:
  - a) The Member will attend 2 meetings with a Regulatory Expert (the "Expert"), at the Member's own expense and within 6 months from the date that this Order becomes final. To comply, the Member is required to ensure that:

- i. The Expert has expertise in nursing regulation and has been approved by CNO in advance of the meetings;
- ii. At least 5 days before the first meeting, or within another timeframe approved by the Expert, the Member provides the Expert with a copy of:
  - 1. the Panel's Order,
  - 2. the Notice of Hearing,
  - 3. the Agreed Statement of Facts,
  - 4. this Joint Submission on Order, and
  - 5. if available, a copy of the Panel's Decision and Reasons;
- iii. Before the first meeting, the Member reviews the following CNO publications and completes the associated Reflective Questionnaires, online learning modules and decision tools (where applicable):
  - 1. *Code of Conduct*,
  - 2. *Professional Standards*, and
  - 3. *Ethics*;
- iv. At least 5 days before the first meeting, or within another timeframe approved by the Expert, the Member provides the Expert with a copy of the completed Reflective Questionnaires;
- v. The subject of the sessions with the Expert will include:
  - 1. the acts or omissions for which the Member was found to have committed professional misconduct,
  - 2. the potential consequences of the misconduct to the Member's patients, colleagues, profession and self,
  - 3. strategies for preventing the misconduct from recurring,
  - 4. the publications, questionnaires and modules set out above, and
  - 5. the development of a learning plan in collaboration with the Expert;
- vi. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards their report to CNO, in which the Expert will confirm:
  - 1. the dates the Member attended the sessions,
  - 2. that the Expert received the required documents from the Member,
  - 3. that the Expert reviewed the required documents and subjects with the Member, and

4. the Expert's assessment of the Member's insight into the Member's behaviour;
- vii. If the Member does not comply with any one or more of the requirements above, the Expert may cancel any session scheduled, even if that results in the Member breaching a term, condition or limitation on the Member's certificate of registration;
- b) For a period of 12 months from the date the Member returns to the practice of nursing, the Member will notify the Member's employer(s) of the decision. To comply, the Member is required to:
  - i. Inform any employer of the decision prior to commencing or prior to resuming employment in any nursing position;
  - ii. Ensure that CNO is notified of the name, address, and telephone number of all employer(s) within 14 days of commencing or resuming employment in any nursing position;
  - iii. Provide the Member's employer(s) with a copy of:
    1. the Panel's Order,
    2. the Notice of Hearing,
    3. the Agreed Statement of Facts,
    4. this Joint Submission on Order, and
    5. a copy of the Panel's Decision and Reasons, once available;
  - iv. Ensure that within 14 days of the commencement or resumption of the Member's employment in any nursing position, the employer(s) forward(s) a report to CNO, in which it will confirm:
    1. that they received a copy of the required documents, and
    2. that they agree to notify CNO immediately upon receipt of any information that the Member has breached the standards of practice of the profession.
4. All documents delivered by the Member to CNO, the Expert or the Member's employer(s) will be delivered by verifiable method, the proof of which the Member will retain.

#### **Reasons for Penalty Decision**

The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate nurses. This is achieved through a penalty that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation

and remediation. The Panel also considered the penalty in light of the principle that joint submissions should not be interfered with lightly.

The Panel concluded that the proposed penalty is reasonable and in the public interest. The Member has co-operated with the College and, by agreeing to the facts and a proposed penalty, has accepted responsibility.

The Panel finds that the penalty satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection. Specific deterrence is met through the oral reprimand and the 3-month suspension of the Member's certificate of registration, which will give the Member an opportunity to learn how her misconduct is perceived by the public and members of the profession and sends a message to the Member that this type of conduct is not acceptable. General deterrence is achieved through the 3-month suspension of the Member's certificate of registration, which will send a clear message to the profession that employer sponsored benefit plan misuse results in serious consequences and will not be tolerated. Rehabilitation and remediation are achieved through the 2 meetings with a Regulatory Expert and review of the College's publications, which will assist the Member with learning the competencies needed to return to nursing practice. The public will be protected through the 12-months of employer notification, which will provide a heightened level of monitoring by the employer on the Member's return to nursing practice.

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

I, Grace Fox, 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.