

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

<b>PANEL:</b>	Dawn Cutler, RN	Chairperson
	Karen Goldenberg	Public Member
	Lalitha Poonasamy	Public Member
	Michael Schroder, NP	Member

**BETWEEN:**

COLLEGE OF NURSES OF ONTARIO	)	<u>ALYSHA SHORE</u> for
	)	College of Nurses of Ontario
- and -	)	
	)	
CHRISTINE LANE	)	<u>NO REPRESENTATION</u> for
Registration No. JC03222	)	Christine Lane
	)	
	)	<u>CHRISTOPHER WIRTH</u>
	)	Independent Legal Counsel
	)	
	)	Heard: June 11, 2021

**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 11, 2021, via videoconference.

**Publication Ban**

College Counsel brought a motion pursuant to s.45(3) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*, for an order preventing public disclosure and banning the publication or broadcasting of the name of the patient, or any information that could disclose their identity, referred to orally or in any documents presented in the Discipline Hearing of Christine Lane.

The Panel has considered the submissions of the Parties and decided that there be an order preventing public disclosure and banning the publication or broadcasting of the name of the patient, or any information that could disclose their identity, referred to orally or in any documents presented in the Discipline Hearing of Christine Lane.

## **The Allegations**

The allegations against Christine Lane (the “Member”) as stated in the Notice of Hearing dated April 21, 2021 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 (the “Act”), and defined in subsection 1(1) of *Ontario Regulation 799/93*, in that, while working as a Registered Practical Nurse at The Redwoods Retirement Residence in Ottawa, Ontario (the “Facility”), you contravened a standard of practice of the profession or failed to meet the standards of practice of the profession when you stole two restaurant gift cards valued at \$75 each from [the Patient], on, around or between March 8 and March 31, 2016;
2. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the Act, and defined in subsection 1(8) of *Ontario Regulation 799/93*, in that, while working as a Registered Practical Nurse at the Facility you misappropriated property from a patient when you stole two restaurant gift cards valued at \$75 each from [the Patient], on, around or between March 8 and March 31, 2016; and
3. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the Act, and defined in subsection 1(37) of *Ontario Regulation 799/93*, in that, while working as a Registered Practical 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 when you stole two restaurant gift cards valued at \$75 each from [the Patient], on, around or between March 8 and March 31, 2016.

## **Member’s Plea**

The Member admitted the allegations set out in paragraphs 1, 2 and 3 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 advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which reads, unedited, as follows:

## **THE MEMBER**

1. Christine Lane (the “Member”) obtained a certificate in nursing from Algonquin College in 2002.
2. The Member registered with the College of Nurses of Ontario (“CNO”) as a Registered Practical Nurse on March 11, 2003. The Member moved to the Non-Practising Class on December 3, 2020.
3. The Member was employed as a full-time staff nurse at The Redwoods Retirement Residence in Ottawa, Ontario (the “Facility”) from 2005 to 2016. On July 27, 2016, the Facility permitted the Member to resign instead of terminating her employment for the incident described below.

## **THE FACILITY**

4. The Member worked the day shift at the Facility from 7:00 am to 3:00 pm. In her role, the Member was responsible for medication administration for approximately 50 patients as well as responding to emergencies, making appointments for patients and tasks such as faxing prescriptions to the pharmacy.
5. The Member had access to each of the patients’ rooms to provide care and administer medication.

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

6. On May 9, 2016, [ ] (the “Patient”) advised [ ], the Facility’s Executive Director, that two Keg gift cards worth \$75 each were missing from his room.
7. The Patient explained that he purchased four Keg gift cards on March 8, 2016, for his grandchildren. The Patient recalled placing the gift cards, each with a separate paper slip, in his drawer by his passport. The Patient had been away on a trip since purchasing the gift cards. When the Patient looked in his drawer on or about May 9, 2016, there were only two gift cards and two slips remaining.
8. [The Facility’s Executive Director] contacted the Keg to determine if either of the gift cards had been redeemed. The Keg informed [the Facility’s Executive Director] that the gift cards had been redeemed.
9. The first gift card was redeemed on March 31, 2016 at the Hunt Club Keg location. The second gift card was redeemed on May 13, 2016 at the Richmond Hill Keg location. The Keg would not disclose whether the difference in the bill had been paid by cash, credit or debit, but advised [the Facility’s Executive Director] that the police could assist.

10. [The Facility's Executive Director] contacted the Ottawa Police Service on May 25, 2016. The police spoke with the Patient. The police also obtained the name of the individual who used a credit card to pay the difference on the bill. On July 11, 2016, the police contacted the individual who advised that her friend, Christine Lane (the Member), had used the gift card. By chance, the Member was with the individual when the police called and the individual passed the phone to the Member. The Member admitted to stealing the gift cards.
11. The Member was going on a trip to France on the day of the call with the police, so the Facility met with the Member upon her return. At this meeting, on July 22, 2016, the Member admitted she had taken the gift cards.
12. On July 27, 2016, the Facility accepted the Member's resignation instead of terminating her employment. The Member provided \$150 to the Facility and this was provided to the Patient.
13. No charges were laid by the police in relation to the incident.

#### **CNO STANDARDS**

14. CNO's *Professional Standards* provides that each nurse is accountable to the public and responsible for ensuring her or his practice and conduct meets legislative requirements and the standards of the profession. Nurses are accountable for conducting themselves in ways that promote respect for the profession.
15. CNO's *Professional Standards* further provides, in relation to the *Ethics* standard, that ethical nursing includes acting with integrity, honesty and professionalism in all dealings with the patient and other health care team members, and assuring privacy and confidentiality in dealings with patients.
16. CNO's *Professional Standards* further provides, in relation to the *Relationships* standard, that nurses meet the standard by ensuring that his/her personal needs are met outside of the therapeutic nurse-patient relationship.
17. CNO's *Therapeutic Nurse-Client Relationship Standard* ("*TNCR Standard*") places the responsibility for establishing and maintaining the therapeutic nurse-patient relationship on the nurse. The *TNCR Standard* provides that the nurse-patient relationship is based on trust, respect, empathy, professional intimacy, and requires appropriate use of the power inherent in the care provider's role.
18. CNO's *TNCR Standard* further provides that each nurse must protect patients from harm including by not engaging in activities that could result in monetary, personal or other material benefit, gain or profit for the nurse (other than the appropriate

remuneration for nursing care or services), or result in monetary or personal loss for the patient.

19. The Member admits and acknowledges that by stealing gift cards from the Patient, she contravened CNO's *Professional Standards* and *TNCR Standard*.

#### **ADMISSIONS OF PROFESSIONAL MISCONDUCT**

20. 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 6 to 19 above.
21. 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 patient, as described in paragraphs 6 to 13 above.
22. The Member admits that she committed the acts of professional misconduct as alleged in paragraph 3 of the Notice of Hearing, and in particular her conduct was disgraceful, dishonourable and unprofessional, as described in paragraphs 6 to 19 above.

#### **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 and 3 of the Notice of Hearing. As to allegation #3, the Panel finds that the Member engaged in conduct that would reasonably be regarded by members of the profession to be disgraceful, dishonourable and unprofessional.

#### **Reasons for Decision**

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

Allegation #1 in the Notice of Hearing is supported by paragraphs 4-20 in the Agreed Statement of Facts. The Member failed to maintain the standard of practice of the profession and contravened the College's *Professional Standards* and the *Therapeutic Nurse-Client Relationship Standard* ("*TNCR Standard*") when she stole gift cards from the Patient. The *TNCR Standard* states that "The nurse meets the standard by not engaging in activities that could result in monetary, personal or other material benefit, gain or profit for the nurse (other than the appropriate remuneration for nursing care or services), the nurse's family and/or the nurse's

friends, or result in monetary or personal loss for the client". The Patient sustained a \$150 monetary loss when the Member stole the gift cards. The *Professional Standards* states "Ethical nursing care includes acting with integrity, honesty and professionalism in all dealings with the client and other health care team members". The Member's conduct displayed a lack of honesty and integrity when she intentionally entered the Patient's retirement home room while the Patient was away on a trip to steal gift cards from his drawer.

Allegation #2 in the Notice of Hearing is supported by paragraphs 6-13 and 21 in the Agreed Statement of Facts. The Member was employed as an RPN at the Facility. On or about May 9, 2016, the Patient became aware that two \$75 dollar Keg gift cards were missing from his drawer. The Executive Director of the Facility contacted the Keg who informed him that the gift cards had been redeemed. The Executive Director of the Facility contacted the Ottawa Police Service. The Ottawa Police Service was able to obtain the name on the credit card that was used to pay the difference of the bill. The Ottawa Police Service contacted this individual who advised that the Member used the gift cards. The Ottawa Police Service spoke with the Member by phone. The Member admitted to the Ottawa Police Service that she had taken the gift cards from the Patient's room. Subsequently, during an in-person meeting with the Facility, the Member admitted to taking the gift cards. The Member reimbursed the Facility \$150 which was given to the Patient.

With respect to Allegation #3, the Panel finds that the Member's conduct in stealing the gift cards was unprofessional as it demonstrated a serious and persistent disregard for her professional obligations.

The Panel also finds that the Member's conduct was dishonourable. It demonstrated an element of dishonesty and deceit through entering the Patient's retirement home room while he was away on a trip to steal \$150 worth of gift cards from his drawer. The Member knew or ought to have known that her conduct was unacceptable and fell below the standards of a professional.

Finally, the Panel finds that the Member's conduct was disgraceful as it shames the Member and by extension the profession. The Member took advantage of the power that she had in the therapeutic nurse-client relationship to intentionally steal the Patient's gift cards. Subsequently, the Member redeemed the stolen gift cards to personally benefit through prepared meals at the Keg. The conduct 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 and the Member 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 three 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 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 the Director of 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,
      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, decision tools and online participation forms (where applicable):
      1. *Professional Standards*,
      2. *Therapeutic Nurse-Client Relationship Standard*, and
      3. *Code of Conduct*;
    - 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 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 18 months from the date the Member returns to the practice of nursing, the Member will notify her 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 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 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.
- c) The Member shall not practice independently in the community for a period of 12 months from the date the Member returns to the practice of nursing.
4. All documents delivered by the Member to the CNO, the Expert or the employer(s) will be delivered by verifiable method, the proof of which the Member will retain.

### **Penalty Submissions**

Submissions were made by College Counsel.

The aggravating factors in this case were that the misconduct was serious as it involved theft, which is a breach of trust which is the foundation of the nurse-client relationship. The Member's conduct was intentional and for her own personal gain. The conduct brings discredit to the profession at large and shows a disregard for her professional obligations.

The mitigating factors in this case include that the Member has cooperated with the College. The Member has shown extreme remorse and taken responsibility for her conduct. The Member understands the gravity of her conduct and has deep regret and remorse for her actions. The incident was an isolated incident. The Member has no prior discipline history with the College.

The proposed penalty provides for general deterrence through the 3 month suspension which will signal to the membership that the College takes this kind of conduct seriously. It will discourage the membership from engaging in this kind of misconduct going forward.

The proposed penalty provides for specific deterrence through the oral reprimand which will signal to the Member, the disapproval of her conduct and by the 3 month suspension, which will deter her from engaging in similar misconduct again.

The proposed penalty provides for remediation and rehabilitation through the meetings with the Regulatory Expert which will help the Member reflect on and learn from her mistakes and return to the profession of nursing if she chooses to do so.

College Counsel submitted cases to the Panel to demonstrate that the proposed penalty fell within the range of similar cases from this Discipline Committee.

*CNO v. Owusu-Afriye*. (Discipline Committee, 2020). This case proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. The member took, through three separate

cheques, a total of \$2100 from a patient. The funds were a gift to the member to assist her with the financial difficulty she was in. The penalty included an oral reprimand, a 5 month suspension, 2 meetings with a Regulatory Expert, an 18 month employer notification and an 18 month restriction on independent practice. This case involved a longer suspension and a longer restriction on independent practice as it involved repeated incidents of the member accepting money on three separate occasions. The sum of money was significantly higher in this case.

*CNO v. Hughes*. (Discipline Committee, 2019). This case proceeded by way of an Agreed Statement of Facts and a Joint Submission on Order. The member committed theft from the patient's spouse. This case involved criminal charges. The amount misappropriated was significantly higher at \$17000. The penalty included an oral reprimand, a 5 month suspension, 2 meetings with a Regulatory Expert, an 18 month employer notification and a 12 month restriction on independent practice. The longer suspension is explained by the significantly higher dollar amount of the theft and the corresponding criminal charges.

The Member made no submissions on penalty.

### **Penalty Decision**

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

1. The Member is required to appear before the Panel to be reprimanded within three 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 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 the Director of 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,

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, decision tools and online participation forms (where applicable):
    1. *Professional Standards*,
    2. *Therapeutic Nurse-Client Relationship Standard*, and
    3. *Code of Conduct*;
  - 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 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 18 months from the date the Member returns to the practice of nursing, the Member will notify her 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 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 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.
- c) The Member shall not practice independently in the community for a period of 12 months from the date the Member returns to the practice of nursing.
4. All documents delivered by the Member to the 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 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 recognizes the seriousness of the Member's conduct. The Member entered a patient's room with the intention to steal from the patient for her own personal gain. The penalty sends a clear message to the nursing profession that theft from a patient will not be tolerated.

The Oral Reprimand and 3 month suspension will specifically deter this Member from engaging in similar conduct in her future practice.

The meetings with the Regulatory Expert and completion of the course work will provide the Member with opportunity to reflect on and learn from her mistakes and return to the profession of nursing if she chooses to do so.

Overall, the public is protected by the requirements that the Member notify her employers of this decision for 18 months from the date she returns to practice, as well as the 12 month restriction on independent practice once she returns to practice.

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 penalty is in line with what has been ordered in previous cases.

I, Dawn Cutler, 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.