

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

PANEL:	Susan Roger, RN	Chairperson
	Michael Hogard, RPN	Member
	Sandra Larmour	Public Member
	Fidelia Osime	Public Member
	Ingrid Wiltshire-Stoby, NP	Member

BETWEEN:

COLLEGE OF NURSES OF ONTARIO)	<u>HAILEY BRUCKNER</u> for
)	College of Nurses of Ontario
- and -)	
)	
RYAN PETSURA)	<u>NO REPRESENTATION</u> for
Registration No. AH010750)	Ryan Petsura
)	
)	<u>CHRISTOPHER WIRTH</u>
)	Independent Legal Counsel
)	
)	Heard: December 6, 2021

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 December 6, 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 prohibiting public disclosure and banning the publication or broadcasting of the names of the Member’s colleagues, or any information that could disclose their identities, referred to orally or in any documents presented in the Discipline hearing of Ryan Petsura.

The Panel considered the submissions of College Counsel and the Member and decided that there be an order prohibiting public disclosure and banning the publication or broadcasting of the names of the Member’s colleagues, or any information that could disclose their identities, referred to orally or in any documents presented in the Discipline hearing of Ryan Petsura.

The Allegations

College Counsel advised the Panel that the College was requesting leave to withdraw the allegations set out in paragraphs 1(b)(i), 1(b)(ii)(c), 1(d)(ii), 1(d)(iv)(a), 2(b)(i), 2(b)(ii)(c), 2(d)(ii) and 2(d)(iv)(a) in the Notice of Hearing dated November 17, 2021. The Panel granted this request. The remaining allegations against Ryan Petsura (the “Member”) 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 employed as a Registered Practical Nurse at Cambridge Memorial Hospital in Cambridge, Ontario (the “Hospital”), you contravened a standard of practice of the profession or failed to meet the standards of practice of the profession, and in particular, you behaved unprofessionally in the workplace, including but not limited to:
 - a. on or about May 20, 2020, you harassed and/or sexually harassed your co-worker, [Co-worker A], in that in that you engaged in conduct which you knew or ought to have known was offensive, embarrassing, humiliating and/or demeaning, including but not limited to:
 - i. you shared an unsolicited story of a sexual nature with [Co-worker A]; and/or
 - ii. you asked [Co-worker A] to share a story of a sexual nature with you;
 - b. on or about May 26, 2020 and May 27, 2020, you harassed and/or sexually harassed your co-worker, [Co-worker B], in that you engaged in conduct which you knew or ought to have known was offensive, embarrassing, humiliating and/or demeaning, including but not limited to:
 - i. [withdrawn];
 - ii. you made comments directed to [Co-worker B] to the effect of:
 - (a) you asked [Co-worker B] personal questions about her name, age, and/or tattoos;
 - (b) you stated “Oh God ... you’re young ... I should not be talking to you”; and/or
 - (c) [withdrawn];
 - c. in or about May 2020, you harassed and/or sexually harassed your co-worker, [Co-worker C], in that you engaged in conduct which you knew or ought to have known was offensive, embarrassing, humiliating and/or demeaning, including but not limited to you made comments direct to [Co-worker C] to the effect of “I was wondering when I would finally get some time alone with you”; and/or

- d. on or about July 7, 2020, you harassed and/or sexually harassed your co-worker, [Co-worker C], in that you engaged in conduct which you knew or ought to have known was offensive, embarrassing, humiliating and/or demeaning, including but not limited to:
 - i. you invaded [Co-worker C]'s personal space;
 - ii. [withdrawn];
 - iii. you touched [Co-worker C]'s waistline across her lower abdomen and/or vaginal area without her consent;
 - iv. you made comments to [Co-worker C] which you knew, or ought to have known, were unwanted, including but not limited to:
 - (a) [withdrawn];
 - (b) you stated "oh didn't mean to touch you";
 - (c) you stated "don't get the wrong idea";
 - (d) you stated "oh fuck I cannot believe I just did that"; and/or
 - (e) you stated "I'm going to get in trouble for sexual harassment".
- 2. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*, S.O. 1991, c. 32, as amended, and defined in subsection 1(37) of *Ontario Regulation 799/93*, in that while employed as a Registered Practical Nurse at the Hospital, you engaged in conduct relevant to the practice of nursing that would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional, as follows:
 - a. on or about May 20, 2020, you harassed and/or sexually harassed your co-worker, [Co-worker A], in that in that you engaged in conduct which you knew or ought to have known was offensive, embarrassing, humiliating and/or demeaning, including but not limited to:
 - i. you shared an unsolicited story of a sexual nature with [Co-worker A]; and/or
 - ii. you asked [Co-worker A] to share a story of a sexual nature with you;
 - b. on or about May 26, 2020 and May 27, 2020, you harassed and/or sexually harassed your co-worker, [Co-worker B], in that you engaged in conduct which you knew or ought to have known was offensive, embarrassing, humiliating and/or demeaning, including but not limited to:
 - i. [withdrawn];
 - ii. you made comments directed to [Co-worker B] to the effect of:
 - (a) you asked [Co-worker B] personal questions about her name, age, and/or tattoos;
 - (b) you stated "Oh God ... you're young ... I should not be talking to you"; and/or
 - (c) [withdrawn];
 - c. in or about May 2020, you harassed and/or sexually harassed your co-worker, [Co-worker C], in that you engaged in conduct which you knew or ought to have known was

offensive, embarrassing, humiliating and/or demeaning, including but not limited to you made comments direct to [Co-worker C] to the effect of “I was wondering when I would finally get some time alone with you”; and/or

- d. on or about July 7, 2020, you harassed and/or sexually harassed your co-worker, [Co-worker C], in that you engaged in conduct which you knew or ought to have known was offensive, embarrassing, humiliating and/or demeaning, including but not limited to:
 - i. you invaded [Co-worker C]’s personal space;
 - ii. [withdrawn];
 - iii. you touched [Co-worker C]’s waistline across her lower abdomen and/or vaginal area without her consent;
 - iv. you made comments to [Co-worker C] which you knew, or ought to have known, were unwanted, including but not limited to:
 - (a) [withdrawn];
 - (b) you stated “oh didn’t mean to touch you”;
 - (c) you stated “don’t get the wrong idea”;
 - (d) you stated “oh fuck I cannot believe I just did that”; and/or
 - (e) you stated, “I’m going to get in trouble for sexual harassment”.

Member’s Plea

The Member admitted the allegations set out in paragraphs 1(a)(i), 1(a)(ii), 1(b)(ii)(a), 1(b)(ii)(b), 1(c), 1(d)(i), 1(d)(iii), 1(d)(iv)(b), (c), (d), (e), 2(a)(i), 2(a)(ii), 2(b)(ii)(a), 2(b)(ii)(b), 2(c), 2(d)(i), 2(d)(iii), 2(d)(iv)(b), (c), (d) and (e) 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 as amended reads, unedited, as follows:

THE MEMBER

1. Ryan Petsura (the “Member”) received a diploma in nursing from Conestoga College on April 28, 2017. He has been registered with the College of Nurses of Ontario (“CNO”) as a Registered Practical Nurse (“RPN”) since January 19, 2018.
2. The Member is not currently practicing nursing.
3. The Member was employed as a part-time RPN at Cambridge Memorial Hospital in Cambridge, Ontario (the “Facility”) on the in-patient surgery unit from May 1, 2018 until his employment was terminated for cause on July 22, 2020 in relation to the incidents described below.

THE FACILITY

4. The incidents arise out of the Member's conduct towards his colleagues on the healthcare team at the Facility.
5. The Facility has a policy, *Respectful Workplace Program* (the "Policy"), which sets out the expectation that it will not tolerate incidents of workplace harassment by staff.
6. The Policy defines "workplace harassment" as:

...unwelcome words or actions that are known or should be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers. [...] Workplace harassment often involves repeated words or actions, or a pattern of behaviours against a worker or group of workers in the workplace that are unwelcome. For the purpose of this policy, includes workplace sexual harassment.
7. Examples of workplace harassment expressly listed in the Policy include making remarks, jokes or innuendos that demean, ridicule, intimidate, insult, embarrass, humiliate, offend, or isolate a worker.
8. The Policy defines "workplace sexual harassment" as involving unwelcome comments or sexual solicitations or advances, where the staff making them knows or ought reasonably to know that the solicitation or advance is unwelcome. The Policy includes examples of workplace sexual harassment, including inappropriate sexual touching, advances, suggestions or requests.
9. The Policy's definition and expectations are consistent with the definition of workplace sexual harassment in the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 ("OHSA"). OHSA defines workplace sexual harassment as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.
10. The Ontario government has published a guide to understanding the law on workplace violence and harassment, which includes a list of examples of sexual harassment. Of significance to this matter, the guide defines workplace sexual harassment as including asking questions, talking, or writing about sexual activities; invading personal space; and unnecessary physical contact, including inappropriate touching.

INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT

Incident Involving Co-worker [A]

11. [Co-worker A] was employed as a staff screener at the Facility during the COVID-19 pandemic. The Facility's COVID-19 protocol required anyone exiting the building to pass a screening process prior to reentry.
12. [Co-worker A] and the Member both worked the night shift May 20, 2020 1900 hours to May 21, 2020 0700 hours. They were familiar with one another but did not have a social relationship outside the Facility.
13. During the night shift, the Member passed through the screening room where [Co-worker A] was working at least three times in order to take a break to have a cigarette.
14. On each occasion that he passed through the screening room, [Co-worker A] was otherwise alone in the room. The Member's visits ranged between 5-20 minutes.
15. During one of the Member's visits to the screening room, the Member shared with [Co-worker A] an explicit story of a sexual encounter he had. [Co-worker A] reported that the Member described the sexual encounter to her in a "very detailed" manner. [Co-worker A] stated that "[the Member] told me every part of it". She further described that the Member's description of the sexual experience made her feel "cringy" due to the level of detail he shared with her about the sexual experience.
16. The Member contacted [Co-worker A] via Facebook Messenger on several occasions following the sexual story and asked her to share one in return. When she refused, the Member responded "lame".
17. If the Member were to testify, he would state that it was his intention to communicate to [Co-worker A] that there is no shame in discussing and embracing personal sexual preferences, but he fully acknowledges that, upon reflection, this topic of conversation is inappropriate in a professional setting.

Incident Involving Co-worker [B]

18. [Co-worker B] was a screener at the Facility during the COVID-19 pandemic. She worked in the staff screening room.
19. [Co-worker B] and the Member worked the night shift May 26, 2020 1900 to May 27, 2020 0700 hours. The Member and [Co-worker B] did not know each other prior to these interactions.
20. Between May 26, 2020 2300, and May 27, 2020 0300, the Member passed through the screening room where [Co-worker B] was working at least three times in order to take a

break to have a cigarette. On each occasion that he passed through the screening room, [Co-worker B] was otherwise alone in the room.

21. During one visit, [Co-worker B] asked the Member his name and age. The Member responded.
22. During another visit, the Member and [Co-worker B] discussed the Member's arm, hand and neck tattoos. The Member asked [Co-worker B] what kind of tattoos she would be interested in getting.
23. The Member then asked [Co-worker B] her last name and her age. The Member read her full name off her Facility ID badge, and [Co-worker B] replied that she was 19-years old. In response, the Member said words to the effect of, "Oh God ... you're young ... I should not be talking to you". The Member then left the screening room.
24. [Co-worker B] felt "very uncomfortable" and "really awkward" because the Member "just kept coming back".
25. At 0659 on May 27, 2020, [Co-worker B] texted a nursing colleague at the Facility about the Member's conduct (excerpts are reproduced as written):

...a male nurse came down to the screening room quite a few times (4-5 times) between about 11 and 3... the first time he came by I didn't think much of it and thought he was just checking in, but as he kept coming back he was asking questions and asking me about my last name and making some comments that made me uncomfortable...

I messaged [a female colleague] about it and we switched stations for about an hour...she said he hadn't come in that time and he stopped by one more time after that, and came in again at 6 but left when he saw [a female colleague] in the room...

26. If the Member were to testify, he would state that he did not mean to make [Co-worker B] feel uncomfortable by asking personal questions. His intention was to have a friendly conversation because he had not met [Co-worker B] before this shift. Nevertheless, he understands how approaching a young female colleague – who was working alone during the night shift in a hospital at the height of the pandemic – and asking personal questions could be distressing when coming from an older male nurse in authority, especially when he specifically commented on her age.
27. The Facility became aware of the Member's conduct towards [Co-worker B] and [Co-worker A], and conducted an investigation. On June 6, 2020, the Facility sent the Member a warning letter formally articulating the concerns with respect to his behaviour toward [Co-worker A] and [Co-worker B]. The Facility required the Member to meet with a

Professional Practice Specialist to reflect on CNO's *Professional Standards*, and the Facility's Policy. The Member attended the meeting and developed a learning plan, but did not submit the requested 2-page reflection.

Incident Involving Co-worker [C]

28. [Co-worker C], an RPN student, worked as a clinical aide in the Facility's surgery unit in May 2020.
29. While attending a staff meeting within her first month in her role in the surgery unit, the Member approached [Co-worker C] and made comments to the effect of, "I was wondering when I would finally get some time alone with you".
30. This interaction with the Member made [Co-worker C] feel uncomfortable given that she was "in a vulnerable position as student working their way to be a nurse".
31. If the Member were to testify, he would state that his intention by making this statement was to have one-on-one mentorship time with his nursing student and was not intended to be characterized as having any sexual or intimate connotation. However, the Member appreciates that his meaning could have been unclear to a young female student who had recently joined the unit.
32. On or around July 7, 2020, the Member acted as [Co-worker C]'s Preceptor.
33. On this date, [Co-worker C] described that the Member was "hovering around" her and "staying in very close proximity" to the point of making her uncomfortable.
34. On at least three occasions, the Member brushed up against [Co-worker C]. She described that on the second occasion, the Member was in the medication room, and hit her hip and arm. He said "Oh sorry didn't mean to touch there. Don't get the wrong impression." [Co-worker C] found these comments awkward.
35. If the Member were to testify, he would say that he did not intend to invade [Co-worker C]'s personal space, but he acknowledges how his conduct may have been perceived, and that he did not respect appropriate boundaries in the workplace.
36. At another point on July 7, 2020, the Member was seated at the nursing station managing a medication request for a patient. There were between 2-3 other colleagues at the nursing station in addition to the Member and [Co-worker C]. If the Member were to testify, he would say that no one other than himself and [Co-worker C] were present at the nursing station.
37. [Co-worker C], who had been standing along the wall behind the Member, walked over to where the Member was seated and stood beside him while he was on the phone.

38. The Member hung up the phone and turned around in his swivel chair to call [Co-worker C] over to discuss the patient. The Member presumed [Co-worker C] was still standing behind him along the wall.
39. When Member turned around in his chair, he was startled to find [Co-worker C] standing beside him. As his body was in motion turning around in his chair, his right hand touched [Co-worker C] across the lower abdomen and/or vaginal area.
40. The Member said to [Co-worker C] words to the effect of, “oh didn’t mean to touch you”, “don’t get the wrong idea”, “oh fuck I cannot believe I just did that”, and “I’m going to get in trouble for sexual harassment”.
41. The Member left the nursing station, while [Co-worker C] remained at the nursing station.
42. [Co-worker C] reported that she felt violated by the Member’s unwanted touching and his inappropriate comments, given her status as a nursing student and his role as her Preceptor.
43. If the Member were to testify, he would state that he regrets his inappropriate behaviour and comments toward [Co-worker C], and that he acknowledges that his conduct had no place in a professional setting. He would further testify that it was never his intention to make [Co-worker C] feel like he was abusing his position of power in their preceptor-student relationship.

CNO STANDARDS OF PRACTICE

44. CNO publishes nursing standards to set out the expectations for the practice of nursing. CNO’s published standards inform nurses of their accountabilities and apply to all nurses regardless of their role, job description or area of practice.

Code of Conduct

45. The *Code of Conduct* articulates what Ontarians can expect of nurses in all practice settings and aims to promote public confidence in the nursing profession through a principle-based accountability model.
46. Nurses have a commitment to the nursing profession. Being a member of CNO 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 by comporting themselves in a manner befitting their role. Nurses must behave in a way that reflects well on the membership and, importantly, must take accountability for their actions when their conduct falls below or contravenes an articulated standard. This is a critical element of self-regulation.
47. Members uphold this standard of practice by ensuring that all collegial interactions are professional and respectful. Furthermore, members are expected to support and teach

student nurses working alongside them in their respective practice environments to build the capacity of the next generation of Ontario nurses.

48. Regarding the principle requiring nurses to work respectfully with colleagues to best meet patients' needs, the *Code of Conduct* provides that:
- a. nurses are professional with colleagues and treat them with respect, including on social media;
 - b. nurses collaborate and communicate with colleagues in a clear, effective, professional and timely way; and
 - c. nurses work together with other health care experts to improve their patients' care.

Professional Standards

49. CNO's *Professional Standards* provides that each nurse is accountable to the public and responsible for ensuring her or his conduct meets legislative requirements and the standards of practice of the profession. Nurses demonstrate this standard by role-modelling professional values, beliefs and attributes as well as nurturing positive collegial relationships. This includes actively creating and promoting a work environment of trust, integrity and respect among all members of the health care team. Nurses are also expected to act as role models and mentor nursing students.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

50. The Member admits that his conduct with respect to his colleagues [Co-worker A], [Co-worker B] and [Co-worker C] was workplace harassment and workplace sexual harassment within the meaning of the Policy and the OHSA. He further admits that his conduct breached CNO's *Code of Conduct* and *Professional Standards*.
51. In particular, the Member admits that he contravened a standard of practice of the profession or failed to meet the standards of practice of the profession when on or about May 20, 2020, he harassed and/or sexually harassed his co-worker, [Co-worker A], when he engaged in conduct that he knew or ought to have known was offensive, embarrassing, humiliating and/or demeaning, as set out in paragraphs 1(a)(i) and 1(a)(ii) of the Notice of Hearing and as described in paragraphs 11-17 above.
52. The Member admits that he contravened a standard of practice of the profession or failed to meet the standards of practice of the profession when on or about May 26 and 27, 2020, he harassed and/or sexually harassed his co-worker, [Co-worker B], when he engaged in conduct that he knew or ought to have known was offensive, embarrassing, humiliating

and/or demeaning, as set out in paragraphs 1(b)(ii)(a) and 1(b)(ii)(b) of the Notice of Hearing and as described in paragraphs 18-27 above.

53. The Member admits that he contravened a standard of practice of the profession or failed to meet the standards of practice of the profession when in or around May 2020 and on or about July 7, 2020, he harassed and/or sexually harassed his co-worker, [Co-worker C], when he engaged in conduct that he knew or ought to have known was offensive, embarrassing, humiliating and/or demeaning, as set out in paragraphs 1(c), 1(d)(i), 1(d)(iii) and 1(d)(iv)(b)-(e) of the Notice of Hearing and as described in paragraphs 28-43 above.
54. The Member admits that he 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 dishonourable and unprofessional, as alleged in paragraphs 2(a)(i), 2(a)(ii), 2(b)(ii)(a), 2(b)(ii)(b), 2(c), 2(d)(i), 2(d)(iii) and 2(d)(iv)(b)-(e) of the Notice of Hearing and described in paragraphs 11-43 above.
55. CNO seeks leave from the Discipline Committee to withdraw the following allegations as set out in the following paragraphs of the Notice of Hearing:
 - 1(b)(i)
 - 1(b)(ii)(c)
 - 1(d)(ii)
 - 1(d)(iv)(a)
 - 2(b)(i)
 - 2(b)(ii)(c)
 - 2(d)(ii)
 - 2(d)(iv)(a)

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(a)(i), 1(a)(ii), 1(b)(ii)(a), 1(b)(ii)(b), 1(c), 1(d)(i), 1(d)(iii), 1(d)(iv)(b), (c), (d), (e), 2(a)(i), 2(a)(ii), 2(b)(ii)(a), 2(b)(ii)(b), 2(c), 2(d)(i), 2(d)(iii), 2(d)(iv)(b), (c), (d) and (e) of the Notice of Hearing. As to allegations #2(a)(i), 2(a)(ii), 2(b)(ii)(a), 2(b)(ii)(b), 2(c), 2(d)(i), 2(d)(iii), 2(d)(iv)(b), (c), (d) and (e), the Panel finds that the Member engaged in

conduct that would reasonably be regarded by members of the profession to be 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.

Allegations #1(a)(i) and 1(a)(ii) in the Notice of Hearing are supported by paragraphs 11-17 and 44-51 in the Agreed Statement of Facts.

Allegations #1(b)(ii)(a) and 1(b)(ii)(b) in the Notice of Hearing are supported by paragraphs 18-27, 44-50 and 52 in the Agreed Statement of Facts.

Allegations #1(c), 1(d)(i), 1(d)(iii), 1(d)(iv)(b), (c), (d) and (e) in the Notice of Hearing are supported by paragraphs 28-43, 44-50 and 53 in the Agreed Statement of Facts.

As admitted by the Member, the Panel finds his conduct, as set out in the above mentioned allegations and supported by the cited paragraphs in the Agreed Statement of Facts, contravened or failed to meet the standards of practice of the profession, namely, the College's *Code of Conduct* and *Professional Standards*.

With respect to allegations #2(a)(i), 2(a)(ii), 2(b)(ii)(a), 2(b)(ii)(b), 2(c), 2(d)(i), 2(d)(iii), 2(d)(iv)(b), (c), (d) and (e) the Panel finds that the Member knew or ought to have known that his conduct was offensive, embarrassing, humiliating, and or/demeaning and as such was dishonourable and unprofessional as it demonstrated a serious and persistent disregard for his professional obligations. Further, the Member knew or ought to have known that his conduct was unacceptable and fell below the standards of a professional.

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 3 months of the date that this Order becomes final.
2. Directing the Executive Director to suspend the Member's certificate of registration for 2 months. This suspension shall take effect from the date that this Order becomes final and shall continue to run without interruption as long as the Member remains in a practicing class.
3. Directing the Executive Director to impose the following terms, conditions and limitations on the Member's certificate of registration:

- a) The Member will attend a minimum of 2 meetings with a Regulatory Expert (the “Expert”) at his own expense and within 6 months from the date that this Order becomes final. If the Expert determines that a greater number of sessions are required, the Expert will advise the Director of Professional Conduct (the “Director”) regarding the total number of sessions that are required and the length of time required to complete the additional sessions, but in any event, all sessions shall be completed within 12 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. *Code of Conduct*, and
 - 2. *Professional Standards*;
 - iv. At least 7 days before the first meeting, the Member provides the Expert with a copy of the completed Reflective Questionnaires and online participation forms;
 - v. The subject of the sessions with the Expert will include:
 - 1. the acts or omissions for which the Member was found to have committed professional misconduct,
 - 2. the potential consequences of the misconduct to the Member’s patients, colleagues, profession and self,
 - 3. strategies for preventing the misconduct from recurring,
 - 4. the publications, questionnaires and modules set out above, and
 - 5. the development of a learning plan in collaboration with the Expert;

- vi. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards his/her report to the Director, in which the Expert will confirm:
 - 1. the dates the Member attended the sessions,
 - 2. that the Expert received the required documents from the Member,
 - 3. that the Expert reviewed the required documents and subjects with the Member, and
 - 4. the Expert's assessment of the Member's insight into his behaviour;
 - vii. If the Member does not comply with any 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 his certificate of registration;
- b) For a period of 12 months from the date that this Order becomes final, the Member will notify his employers of the decision. To comply, the Member is required to:
- i. Ensure that the Director is notified of the name, address, and telephone number of all employer(s) within 14 days of commencing or resuming employment in any nursing position;
 - ii. Provide his employer(s) with a copy of:
 - 1. the Panel's Order,
 - 2. the Notice of Hearing,
 - 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.
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 Member's conduct was serious. The Member demonstrated a disregard for his professional obligations to treat members of the healthcare team with dignity and respect, cultivate personal, collegial relationships and be a leader and role model for his colleagues.

The Member's conduct constitutes harassment and sexual harassment as defined by the facility's policy on workplace violence and harassment as well as the legislation governing all workplaces in Ontario.

The Member harassed three different co-workers (two non-nursing) and one practical nursing student.

The Member held a position of power as a Nurse over all three of these co-workers and in particular as a preceptor for one of the three impacted co-workers.

The Member repeated his conduct over time, it was intentional and progressive workplace discipline did not stop or prevent this conduct from recurring.

The mitigating factors in this case were that the Member accepted responsibility for his conduct by entering into an Agreed Statement of Facts and a Joint Submission on Order and did so early in the process. He has expressed remorse for his conduct. The Member also has no prior discipline history with the College.

The proposed penalty provides for general deterrence through the 2 month suspension, which will deter members of the profession from engaging in this type of conduct.

The proposed penalty provides for specific deterrence through the oral reprimand and the 2 month suspension, which will deter the Member from engaging in similar misconduct in the future.

The oral reprimand will also assist the Member in gaining a greater understanding of how his actions are perceived by the nursing profession, and the public and thereby protects the public. The suspension sends a strong signal to the Member, and other members of the profession that this kind of behavior is unacceptable and will ensure that conduct like this is not repeated, and the public is thereby protected.

The proposed penalty provides for remediation and rehabilitation through a minimum of 2 meetings with a Regulatory Expert and review of the College's publications. These will prepare the Member to return to ethical practice that meets the standards expected of nurses. These meetings will help deepen the Member's understanding of his misconduct and help to ensure that it is not repeated in the future.

Further, the public is protected through the 12 months of employer notification provision.

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. Deonarain (Discipline Committee, 2019): In this case, the member admitted to sexually harassing a co-worker, and he attempted to and did touch her breasts without consent, made inappropriate comments about her breasts and touched her buttocks without consent. The penalty included a 3-month suspension, an oral reprimand and similar terms, conditions and limitations. In the present case, the Member's conduct was less serious, as it did not involve repeated unwanted touching and as a result, the College was seeking a shorter suspension.

CNO v. Keddie (Discipline Committee, 2020): In this case, the member admitted to tapping or grabbing a co-worker on the buttocks while walking down the hall, as he said "Hi, [co-worker's name]". The penalty included a 1-month suspension, an oral reprimand and similar terms, conditions and limitations. A more serious sanction is appropriate in the present case because of the repeated nature of the Member's conduct towards multiple colleagues.

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 3 months of the date that this Order becomes final.
2. The Executive Director is directed to suspend the Member's certificate of registration for 2 months. This suspension shall take effect from the date that this Order becomes final and shall continue to run without interruption as long as the Member remains in a practicing class.
3. The Executive Director is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:
 - a) The Member will attend a minimum of 2 meetings with a Regulatory Expert (the "Expert") at his own expense and within 6 months from the date that this Order becomes final. If the Expert determines that a greater number of sessions are required, the Expert will advise the Director of Professional Conduct (the "Director") regarding the total number of sessions that are required and the length of time required to complete the additional sessions, but in any event, all sessions shall be completed within 12 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. *Code of Conduct*, and
 2. *Professional Standards*;
- iv. At least 7 days before the first meeting, the Member provides the Expert with a copy of the completed Reflective Questionnaires and online participation forms;

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;
- v. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards his/her report to the Director, in which the Expert will confirm:
 1. the dates the Member attended the sessions,
 2. that the Expert received the required documents from the Member,
 3. that the Expert reviewed the required documents and subjects with the Member, and
 4. the Expert’s assessment of the Member’s insight into his behaviour;

- vi. 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 his certificate of registration;
- b) For a period of 12 months from the date that this Order becomes final, the Member will notify his employers of the decision. To comply, the Member is required to:
 - i. Ensure that the Director is notified of the name, address, and telephone number of all employer(s) within 14 days of commencing or resuming employment in any nursing position;
 - ii. Provide his employer(s) with a copy of:
 - 1. the Panel's Order,
 - 2. the Notice of Hearing,
 - 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.
- 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 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 the range with

what has been ordered in previous cases. This penalty meets the goals of penalty, reflects the aggravating and mitigating circumstances in this case, and it is consistent with prior decisions of the Discipline Committee.

I, Susan Roger, 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.