

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA also known as  
COLLEGE OF REGISTERED NURSES OF ALBERTA

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF **KELLY HILL**, REGISTRATION #**79,600**

AS A RESULT OF A HEARING HELD BEFORE

THE HEARING TRIBUNAL

OF THE COLLEGE

11120 178 STREET

EDMONTON, ALBERTA

ON

**DECEMBER 7, 2022**

## INTRODUCTION

A hearing was held on December 7, 2022, via Microsoft Teams videoconferencing by the Hearing Tribunal of the College of Registered Nurses of Alberta (the “**College**” or “**CRNA**”) to hear a complaint against Kelly Hill, registration #79,600 (the “**Registrant**”).

Those present at the hearing were:

**a. Hearing Tribunal Members:**

Grace Brittain, RN Chairperson  
Claire Mills, RN  
Doug Dawson, Public Representative  
Anita Warnick, Public Representative

**b. Independent Legal Counsel to the Hearing Tribunal:**

Julie Gagnon

**c. CRNA Representative:**

Vita Wensel, Conduct Counsel

**d. Observers:**

Tracy Oosterbroek

## PRELIMINARY MATTERS

Conduct Counsel confirmed that there were no objections to the composition of the Hearing Tribunal or to the Hearing Tribunal’s jurisdiction to proceed with the hearing.

Conduct Counsel noted that the Registrant was not in attendance and advised that neither the Registrant nor anyone on her behalf had contacted the College with respect to the hearing.

The Chairperson noted that pursuant to section 78 of the *Health Professions Act*, RSA 2000, c. H-7 (“**HPA**”), the hearing was open to the public. No application was made to close the hearing.

The Chairperson noted that there was one member of the Hearing Tribunal roster present as an observer, for educational purposes.

### **Application to Proceed in the Registrant’s Absence**

Conduct Counsel brought an application to proceed in the absence of the Registrant, pursuant to section 79(6) of the HPA. The Affidavit of Amy Payne (Exhibit 3) was provided in support of this application.

The Affidavit of Amy Payne demonstrates that several attempts were made to serve the Notice to Attend Hearing on the Registrant at the address provided in the College’s registration records and at various email addresses. The registered mail was returned and bounce-back email messages

were received. The College attempted to contact the Registrant by telephone at the telephone numbers provided by the Registrant at the time of registration. A recording for each of the telephone numbers stated that the numbers were not in service. The College also took the steps of publishing the Notice to Attend Hearing in the newspaper, in accordance with the College's Bylaws.

Conduct Counsel noted that section 120 of the HPA provides requirements for service and the College Bylaws also address service on investigated persons.

Conduct Counsel noted that she has never been contacted by the Registrant. The Registrant's most recent contact with the College was in December 2020. The College has been unable to contact the Registrant with respect to attending the hearing.

The Hearing Tribunal carefully reviewed the Affidavit of Amy Payne and considered the submissions of Conduct Counsel. The Hearing Tribunal found that the College has been diligent in its attempts to contact the Registrant and to serve the Notice to Attend a Hearing. Section 120(3) of the HPA provides that notice is sufficient if provided by registered mail at the person's address shown on the register. The College has met this requirement. The College Bylaws further provide for notice by way of publication in a local newspaper. This requirement was also met.

The Hearing Tribunal was satisfied that the College's attempts at service were thorough and reasonable. The College has met its statutory requirement for service and also taken several additional steps to try to serve the Registrant. The Hearing Tribunal also considered that there was no evidence to suggest that an adjournment would result in the College being able to contact the Registrant or in securing the Registrant's attendance at the hearing.

For the reasons set out above, the Hearing Tribunal determined it would proceed with the hearing in the absence of the Registrant.

### **Application to Proceed by way of Affidavit Evidence**

Conduct Counsel brought an application to proceed with the hearing by way of Affidavit evidence. Conduct Counsel noted that the case relied heavily on documentation, the Affidavit evidence was directly related to the allegations and the Registrant was not present to cross-examine any witnesses.

The Hearing Tribunal considered the application. Given that the Registrant was not in attendance, there were no procedural fairness issues to consider regarding the right to cross-examine. Given the nature of the case, the Hearing Tribunal determined that it was reasonable to proceed by way of Affidavit evidence.

## **ALLEGATIONS**

The allegations in the Notice to Attend a Hearing are as follows:

1. In or between October 2013 and July 2018, the Registrant failed to demonstrate adequate judgment, and failed to demonstrate honesty and integrity, when she provided one or more counterfeit work permits to her employer in order to maintain her employment, contrary to the CNACE and CPSRM.

2. In or between November 2013 and July 2018, the Registrant failed to demonstrate adequate judgment, and failed to demonstrate honesty and integrity, when she knowingly worked as a Registered Nurse without a valid work permit, contrary to the CNACE and CPSRM.
3. In or between December 2020 and August 2021, the Registrant failed to demonstrate accountability when she failed to respond to concerns identified in an investigation by the College, contrary to the CNACE, CELCPRN, and CPSRM.

Conduct Counsel noted that the allegations had been updated (Exhibit 4) to reflect that CELCPRN came into effect in 2019.

## **EVIDENCE**

The following documents were entered as Exhibits:

### **EXHIBIT DESCRIPTION**

**Exhibit #1:** Notice to Attend

**Exhibit #2:** Book of Authorities

**TAB 1:** HPA excerpts, sections 77 – 83

**TAB 2:** HPA excerpts, section 120

**TAB 3:** CRNA Bylaw 5.2

**TAB 4:** CRNA Decision, SO - August 31, 2022

**TAB 5:** Canadian Nurses Association Code of Ethics 2017 Edition (“**CNACE**”)

**TAB 6:** Canadian Nurses Association Code of Ethics 2008 Edition

**TAB 7:** Practice Standards for Regulated Members (2013) (“**CPSRM**”)

**TAB 8:** Entry-Level Competencies for the Practice of Registered Nurses (2019) (“**CELCPRN**”)

**TAB 9:** HPA excerpts, section 1(1)(pp)

**TAB 10:** Ontario College of Teachers v Callaghan, 2013 ONOCT 11 (CanLII)

**TAB 11:** College of Nurses of Ontario v Clutario, 2008 CanLII 89806 (ON CNO)

**TAB 12:** Jaswal v Medical Board (Nfld), 1996 CanLII 11630 (NL SC)

**TAB 13:** Jinnah v Alberta Dental Association and College, 2022 ABCA 336

**TAB 14:** Tan v Alberta Veterinary Medical Association, 2022 ABCA 221

**TAB 15:** CRNA Decision, AM – May 4, 2021

- Exhibit #3:** Affidavit of Amy Payne
- Exhibit #4:** Updated Allegations December 7, 2022
- Exhibit #5:** Complaint (Rcvd Aug 23-18)
- Exhibit #6:** Affidavit of [Witness 1]
- Exhibit #7:** Affidavit of [Witness 2]
- Exhibit #8:** Affidavit of [Witness 3]
- Exhibit #9:** Affidavit of Colleen Densmore
- Exhibit #10:** Affidavit of Christie Cloke
- Exhibit #11:** Affidavit of Christina Alexandropolous
- Exhibit #12:** Draft Proposed Order
- Exhibit #13:** Estimated Statement of Costs for a Hearing

## **AFFIDAVIT EVIDENCE**

### Evidence of [Witness 1]

[Witness 1] is an Intelligence Officer with the Intelligence and Enforcement Operations Division, Intelligence and Enforcement Branch – Prairie Region, Canada Border Service Agency (“**CBSA**”).

[Witness 1] received a verbal request from a CBSA Criminal Investigations Section Investigator in July 2018, to conduct an informal analysis of the original work permit and photocopies of a work permit, bearing the same document number belonging to the Registrant.

[Witness 1] conducted an informal analysis of the original work permit (utilizing specialized light sources and magnification), as well as comparison with a genuine sample of the questioned document.

[Witness 1] noted her observations regarding security features and print techniques associated with genuine documents of this type and concluded that the work permit issued to the Registrant on 25 October 2010 was genuine.

[Witness 1] also compared the photocopied work permits presented with the same document number but different issue and expiry dates and concluded that they were counterfeit due to the fact that each Citizenship and Immigration Canada (“**CIC**”) issued document has its own unique identifier which is not replicated.

[Witness 1] concluded that the original work permit for the Registrant issued on 25 October 2010 was a genuine document and the photocopies bearing the same document number were counterfeit.

Based on the counterfeit work permits referenced above, [Witness 1] believes that the Registrant did not hold a valid work permit issued by CIC between November 2013 and July 2018.

#### Evidence of [Witness 2]

[Witness 2] is a Senior Human Resources Advisor at Alberta Health Services (“AHS”) in the City of Calgary. [Witness 2] has worked with AHS since October 2015. She originally started as a Human Resources Advisor and was promoted to her current position in September 2016. In her role, she supports the Rockyview General Hospital (“RGH”) site.

Based on a review of her file and internal information, [Witness 2] believes that the Registrant was an employee of AHS between 2005 and 2018 in the role of a [Witness 2] Registered Nurse. The Registrant’s most recent position held was at RGH in the Medical Ambulatory clinics.

Within [Witness 2’s] role, she has been involved in the Registrant’s human resources file since 2018. On July 17, 2018, CBSA notified AHS that the Registrant was unauthorized to work in Canada and that they suspected she had provided AHS with copies of fraudulent work permits dating back to 2013.

The Registrant was placed on administrative leave pending an investigation. On July 27, 2018, [Witness 2] participated in an internal investigation with the Registrant. The Registrant did not offer a meaningful explanation nor was she accountable for her actions. On August 13, 2018, CBSA notified AHS that the Registrant was criminally charged on July 26, 2018, under sections of the *Immigration and Refugee Protection Act* and the *Criminal Code of Canada* for working without valid work permits since November 1, 2013.

In August 2018, [Witness 2] advised the Registrant, through the union, that the Registrant would be terminated, and it was agreed that the Registrant could resign. On August 17, 2018, the Registrant tendered a formal resignation letter.

The Registrant has not worked for AHS since her administrative leave of absence on July 17, 2018.

#### Evidence of [Witness 3]

[Witness 3] is an Advisor Talent & Acquisition for AHS in Calgary. She is responsible for reviewing work permits to ensure validity to work for AHS.

[Witness 3] recalls reviewing the Registrant’s work permits within her role at AHS. She believes she first became involved with the Registrant’s file in 2008 and reviewed the matter personally when the Registrant first applied to AHS.

Between 2013 and 2016, [Witness 3] or her colleague sought information from the Registrant, and the Registrant advised that her lawyer had assisted her with her work permit. The Registrant submitted a copy of her work permit to AHS every two years. [Witness 3] or her colleague, reviewed the permit and did not see any issues. Between 2013 and 2018, [Witness 3] continued to receive copies of the Registrant’s work permit submitted by her and did not see any issues.

Proof of a valid work permit is required for an employee to retain and maintain their role of employment with AHS. Based on information relayed to [Witness 3], it is her belief that the Registrant was crossing the US-Canada border one day in 2018 and was asked about her work setting, which raised a concern about whether she had a valid work permit. Based on this information, AHS was advised by CBSA of the concern.

#### Evidence of Colleen Densmore

Ms. Densmore is currently the Investigation Officer in the Conduct Department for the College. She investigates complaints within the professional conduct process.

Ms. Densmore was assigned the investigation in December 2018 for the complaint made against the Registrant. She investigated the matter between 2018 and 2019, including interviewing witnesses and collecting relevant documents.

Between 2018 and July 2020, Ms. Densmore had intermittent contact with the complainant via telephone and email about the investigation. Throughout this period of time, she was instructed by the Complaints Director to postpone the Registrant's interview due to pending criminal charges and received intermittent responses from the Registrant, or the Registrant's Labour Relations Officer ("**LRO**") from the United Nurses of Alberta.

On September 2, 2020, she called the Registrant and left a voice message requesting a call back to arrange an interview as she had been made aware that the Registrant's criminal charges were stayed.

On September 8, 2020, Ms. Densmore sent an email to the LRO and the Registrant to schedule an interview with the Registrant. On September 15, 2020, she sent an email to the LRO to schedule an interview with the Registrant. On October 21, 2020, she sent an email to the Registrant and the LRO to schedule an interview. On October 26, 2020, she sent a follow up email to the Registrant and LRO asking for a response to her email of October 21, 2020. On November 2, 2020, Ms. Densmore left a telephone voice mail message for the Registrant. On November 9, 2020, the Associate Complaints Director sent a letter of expectation to cooperate to the Registrant via registered mail seeking a response to Ms. Densmore in her role as investigator.

On November 20, 2020, Ms. Densmore received a voice mail message from the Registrant confirming she received the letter and indicating she would submit a medical letter by the second deadline as outlined in the registered letter.

On December 3, 2020, Ms. Densmore sent an email to the Registrant following up on scheduling an interview. On December 9, 2020, the Registrant sent an email to Ms. Densmore and the Associate Complaints Director, replying to the letter dated November 9, 2020. On December 10, 2020, the Associate Complaints Director had a phone call with the Registrant about providing medical information. On December 18, 2020, Ms. Densmore left a voice mail for the Registrant to contact her and later that day, received a call from her and during the call reiterated to her about the requirements for a medical letter.

On January 12, 2021, Ms. Densmore sent an email to the Registrant to follow up on a medical letter with a deadline of January 21, 2021 and received no response. On April 5, 2021, Ms. Densmore believes she re-sent the January 12, 2021 email to the Registrant asking her to read

the previous email and received no response. On April 6, 2021, Ms. Densmore believes she sent an email to the Registrant about an Agency Choice Form and received no response.

On April 14, 2021, Ms. Densmore sent an email to the Registrant seeking a response and received no response. On the same day, she left a voicemail for the Registrant about her email. Ms. Densmore received no response. On April 26, 2021, Ms. Densmore called the Registrant advising that a notice to provide would be sent to her. Furthermore, Ms. Densmore noted that the other telephone number on file for the Registrant was out of service. Ms. Densmore believes that she sent email correspondence to the Registrant and believes that a notice to provide was sent to the Registrant. Ms. Densmore received no response.

On August 9, 2021, Ms. Densmore called the Registrant but was unable to leave a message at the telephone number. She called the Registrant at another telephone number but the number could not be completed as dialed. On August 9, 2021, Ms. Densmore sent an email to the Registrant to arrange an interview. She received no response. On August 11, 2021, a letter was sent via registered mail to the Registrant to schedule an interview at her listed address. She received no response.

On September 27, 2021, based on a lack of response from the Registrant, Ms. Densmore proceeded to submit her investigation to the Associate Complaints Director in absence of the Registrant's response to the concerns identified in the investigation.

#### Evidence of Christie Cloke

Christie Cloke is the Manager of Registration and Committee of the College. Ms. Cloke has worked for the College for approximately 3.5 years in the registration department and has reviewed the registration file for the Registrant.

The Registrant originally applied in 2005 for a temporary permit and was later granted an active Registered Nurse ("RN") permit with the College on July 29, 2006. Between 2006 and 2018, the Registrant held an active practice RN permit with the College and re-applied to the College each calendar year for renewal of her active RN practice permit.

On August 20, 2018, the Registrant applied for a non-practicing status with the College for the upcoming year. In the Registrant's 2018 renewal application, there were no notes or information declared about criminal charges in the "good character" section of the eligibility questions. Furthermore, in the Registrant's 2018 application there were no notes or information about her immigration status declared.

On February 11, 2019, the Registrant contacted the registration department and inquired about returning to practice and was provided information on the same. Registration has received no response since from the Registrant.

The Registrant has not had an active practice permit since 2019.

In the College's registration processes, there are no eligibility question relating to immigration status and/or whether an applying person's work permit is valid.

#### Evidence of Christina Alexandropolous

Christina Alexandropolous is a legal assistant in the Conduct Department of the College. She is aware of the charges relating to the Registrant.

On the afternoon of November 8, 2022, Ms. Alexandropolous contacted the Calgary Provincial Courthouse, Criminal Division and spoke with a person who identified themselves as a clerk. The clerk advised Ms. Alexandropolous that the Registrant's matters which include charges pursuant to sections 127(a), 124(1)(a), and 368(1)(a) of the Criminal Code of Canada were stayed on July 16, 2020.

## **SUBMISSIONS ON THE ALLEGATION**

### **Submissions by Conduct Counsel:**

Conduct Counsel reviewed the evidence in each of the Affidavits. She noted that during the investigation process, there was a pause in the communications between the College and the Registrant based on the criminal proceedings. However, the criminal charges have now been stayed.

Conduct Counsel noted that the allegations are proven and constitute unprofessional conduct on the basis of a contravention of the Code of Ethics or Standards of Practice. Further, the charges are unprofessional conduct on the basis of failing to cooperate with an investigator of the College.

Conduct counsel submitted that the Registrant contravened the following CPSRM, 1.1, 1.2, 3.1, 5.2 and 5.3 and that the Registrant breached the following provisions of the CNACE: F4, G1 and G2 and Code of Ethics (2008) F3, G1 and G2. For Allegation 3, 2.1 of the CELCPRN was applicable.

## **HEARING TRIBUNAL FINDINGS AND REASONS**

The Hearing Tribunal carefully reviewed and considered the evidence presented and the submissions of Conduct Counsel.

The Hearing Tribunal noted the uncontroverted evidence in the Affidavits. The Hearing Tribunal noted that additional documentation attached to the Affidavits, which was reviewed by the Hearing Tribunal and which supported and corroborated the evidence of each witness. The evidence detailed above is not reproduced in detail in this section of the decision, but the Hearing Tribunal accepts the evidence of each witness as set out above as the Hearing Tribunal's findings of fact.

The Hearing Tribunal finds that the allegations are proven and that the conduct constitutes unprofessional conduct for the reasons that follow.

Allegation 1: In or between October 2013 and July 2018, the Registrant failed to demonstrate adequate judgment, and failed to demonstrate honesty and integrity, when she provided one or more counterfeit work permits to her employer in order to maintain her employment, contrary to the CNACE and CPSRM.

The Hearing Tribunal relied on the evidence above, in particular that of [Witness 1], [Witness 2] and [Witness 3]. The evidence demonstrates on a balance of probabilities that between October

2013 and July 2018, the Registrant provided one or more counterfeit work permits to her employer in order to maintain her employment.

Allegation 2: In or between November 2013 and July 2018, the Registrant failed to demonstrate adequate judgment, and failed to demonstrate honesty and integrity, when she knowingly worked as a Registered Nurse without a valid work permit, contrary to the CNACE and CPSRM.

The Hearing Tribunal relied on the evidence above, in particular that of [Witness 1], [Witness 2], [Witness 3] and Ms. Cloke. The evidence demonstrates that between November 2013 and July 2018, the Registrant knowingly worked as a Registered Nurse without a valid work permit.

The Registrant resigned her position with AHS following the commencement of the AHS investigation. The Hearing Tribunal was satisfied that, on a balance of probabilities and based on the findings made in Allegation 1, the Registrant knew that she was working as a Registered Nurse without a valid work permit.

Allegation 3: In or between December 2020 and August 2021, the Registrant failed to demonstrate accountability when she failed to respond to concerns identified in an investigation by the College, contrary to the CNACE, CELCPRN, and CPSRM.

The Hearing Tribunal relied on the evidence above, in particular that of Ms. Densmore. The evidence demonstrates that between December 2020 and August 2021, the Registrant failed to respond to concerns identified in an investigation by the College.

The above conduct constitutes unprofessional conduct as follows:

1(1)(pp) “unprofessional conduct” means one or more of the following, whether or not it is disgraceful or dishonourable:

...

(ii) contravention of this Act, a code of ethics or standards of practice;

...

vii) failure or refusal

...

(B) to comply with a request of or co-operate with an investigator,

The Hearing Tribunal finds that the Registrant breached the following provisions of the Practice Standards for Regulated Members (CPSRM):

**Standard One: Responsibility and Accountability**

The nurse is personally responsible and accountable for their nursing practice and conduct.

**Indicators**

- 1.1 The nurse is accountable at all times for their own actions.
- 1.2 The nurse follows current legislation, standards and policies relevant to their practice setting.

**Standard Three: Ethical Practice**

The nurse complies with the *Code of Ethics* adopted by the Council in accordance with Section 133 of *HPA* and *CARNA* bylaws (*CARNA*, 2012).

**Indicators**

- 3.1 The nurse practices with honesty, integrity and respect.

**Standard Five: Self-Regulation**

The nurse fulfills the professional obligations related to self-regulation.

**Indicators**

- 5.2 The nurse follows all current and relevant legislation and regulations.
- 5.3 The nurse follows policies relevant to the profession as described in *CARNA* standards, guidelines and position statements.

The Hearing Tribunal further finds that the Registrant breached the 2017 Code of Ethics as follows (CNACE):

**G. Being Accountable**

Nurses are accountable for their actions and answerable for their practice.

**Ethical responsibilities:**

1. Nurses, as members of a self-regulating profession, practise according to the values and responsibilities in the Code and in keeping with the professional standards, laws and regulations supporting ethical practice.
2. Nurses are honest and practise with integrity in all of their professional interactions. Nurses represent themselves clearly with respect to name, title and role.

The Hearing Tribunal further finds that the Registrant breached the 2008 Code of Ethics as follows:

**G. Being Accountable**

Nurses are accountable for their actions and answerable for their practice.

**Ethical responsibilities:**

1. Nurses, as members of a self-regulating profession, practise according to the values and responsibilities in the Code of Ethics for Registered Nurses and in keeping with the professional standards, laws and regulations supporting ethical practice.
2. Nurses are honest and practise with integrity in all of their professional interactions.

The Hearing Tribunal also finds that the Registrant breached the Entry-Level Competencies for the Practice of Registered Nurses as follows (CELCPRN):

### **Competency Category 2: Professional**

Registered Nurses are professionals who are committed to the health and well-being of clients. Registered Nurses uphold the profession's practice standards and ethics and are accountable to the public and the profession.

#### **Competencies:**

- 2.1. Demonstrates ACCOUNTABILITY, accepts responsibility, and seeks assistance as necessary for decisions and actions within the legislated SCOPE OF PRACTICE.

The Registrant's conduct is in breach of the above provisions of the CPSRM, the CNACE (and prior Code of Ethics 2008) and the CELCPRN. The Registrant failed to take accountability for her actions and acted in breach of legislation, standards and employer policies in forging her work permit and practicing as a Registered Nurse in Canada without a valid work permit. The Registrant was dishonest in her conduct. The public places a very high level of trust in Registered Nurses and the Registrant's conduct undermines this trust and the integrity of the profession. The conduct in Allegations 1, 2 and 3 contravened the Practice Standards and Code of Ethics. The breaches are serious and constitute unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA.

In addition, in failing to respond to the communications from the investigator, the Registrant impeded the College's ability to investigate the complaint made against the Registrants. This is very serious conduct. If a College is unable to regulate its members, this places its ability to self-regulate in jeopardy, it also undermines the trust that the public has placed in the profession and could potentially create a safety risk to the public. The conduct is very serious and constitutes unprofessional conduct under section 1(1)(pp)(vii)(B) of the HPA.

### **SUBMISSIONS ON SANCTION**

The Hearing Tribunal advised Conduct Counsel of its decision on the allegations during the hearing and proceeded to hear submissions on sanction.

#### **Submissions by Conduct Counsel:**

Conduct Counsel submitted that cancellation of the Registrant's registration and practice permit pursuant to section 82(1)(h) of the HPA was appropriate. Conduct Counsel presented the proposed orders in Exhibit 12 for the Hearing Tribunal's consideration.

Conduct Counsel noted that the Registrant has not had an active practice permit since 2019 and had not practiced as a Registered Nurse since 2018. However, cancellation by the Hearing Tribunal was appropriate. Cancellation under section 82 of the HPA arising from a disciplinary process has a separate process for applying for re-registration with the College (including application to the reinstatement committee) than if a registrant is simply administratively cancelled.

Given the severity of the allegations, cancellation was appropriate. Conduct Counsel reviewed the factors in *Jaswal v. Newfoundland Medical Board* (1996 CanLII 11630), as follows:

*Nature and gravity of proven:* The conduct in the allegations was egregious. It was repeated over a period of time. The conduct was intentional and fraudulent in that the Registrant provided counterfeit work permits over a period of 5 years. The conduct in Allegation 3 goes to the governability of the Registrant who failed or refused to cooperate in an investigation. This is extremely serious conduct.

*Age and Experience:* The Registrant was an experienced and long term Registered Nurse.

*Previous character:* There are no previous findings of unprofessional conduct.

*Number of times the conduct occurred:* The conduct occurred over a period of five years. This is a significant period of time. For Allegation 3, the conduct occurred over many months and the Registrant repeatedly failed to cooperate with the investigator.

*The role of the Registrant in acknowledging what has occurred:* There has been no acknowledgement or acceptance of responsibility by the Registrant.

*Whether the Registrant has suffered other serious financial or other penalties:* The Registrant was charged criminally. However, the criminal charges have been stayed. The Registrant could have attended the hearing to speak to any other circumstances.

*The presence or absence of any mitigating circumstances:* There are no mitigating circumstances in this case.

*The need to promote specific and general deterrence:* This factor is important. It is paramount to send a message of deterrence to members.

*The need to maintain the public's confidence in the integrity of the profession:* This factor is also paramount.

*The degree to which the offensive conduct was found to be outside the range of permitted conduct:* The conduct here was far outside the range of acceptable conduct.

*The range of sanction in similar cases:* Conduct Counsel reviewed cases provided in the Book of Authorities, although the conduct in the cases presented was less egregious than in the current case.

Conduct Counsel made submissions regarding costs. She noted that the Complaints Director was seeking \$4,000 in costs, payable over a period of two years. This represented approximately 50% of the costs in the estimated statement of costs. Conduct Counsel noted the recent case law in *Tan v Alberta Veterinary Medical Association* (2022 ABCA 221) and *Jinnah v Alberta Dental Association and College* (2022 ABCA 336).

Conduct Counsel noted that there are compelling reasons to order costs in this case. The conduct of the Registrant was egregious. The costs are reasonable and do not constitute a crushing financial blow.

## REASONS FOR ORDER OF THE HEARING TRIBUNAL

The Hearing Tribunal carefully considered the submissions of Conduct Counsel, the wording of the proposed Order (Exhibit 12) and the case law presented.

The Hearing Tribunal agreed that the conduct in this case is egregious. The Registrant forged documents to permit her to work as a Registered Nurse in Canada. She provided these forged documents to AHS and worked in Canada without a valid work permit.

The conduct of the Registrant undermines the integrity and trust put in the profession of registered nursing. Further, although no patients were harmed, the conduct harms the integrity of the profession, undermines the public trust and puts public safety at risk.

In failing to cooperate with the College investigator, the Registrant further harmed the integrity of the profession and the public trust. If the College cannot govern its members, it cannot effectively protect the public interest.

The Hearing Tribunal agreed with the *Jaswal* factors as put forward by Conduct Counsel. The Hearing Tribunal found that the proposed orders were reasonable and appropriate. The proposed orders will serve to preserve the integrity of the profession, maintain the public interest and protect the public.

The Hearing Tribunal also found the proposed costs of \$4,000 to be appropriate in this case. In accordance with the decision in *Jinnah*, this is a case where there is a compelling reason to order costs. The allegations in this case constitute very serious unprofessional conduct. The proposed costs of \$4,000 is reasonable in the circumstances.

## ORDER OF THE HEARING TRIBUNAL

The Hearing Tribunal orders:

1. Notwithstanding the Registrant's practice permit and registration being cancelled by the College's Registration Department effective October 1, 2019, pursuant to section 43 of the *Health Professions Act*, RSA 2000, c H-7 ("HPA"), the Registrant's practice permit and registration is hereby also cancelled, effectively immediately, pursuant to section 82(1)(h) of the HPA.
2. By **December 10, 2024**, the Registrant shall pay costs in the sum of **\$4,000.00**, via payment

to the College (the “**Costs**”), and shall provide proof of payment satisfactory to the Complaints Director, noting the following terms may apply:

- a. pursuant to Section 82(3)(c) of the HPA, the Registrant may be automatically suspended for any non-payment;
  - b. if the Registrant fails to pay the Costs by the deadline indicated, the Complaints Director may publish an Administrative Notice of Non-Payment of the Costs on the College’s website including the Registrant’s name and registration number and that the Costs arose from a Decision of the Hearing Tribunal;
  - c. the Registrant must pay the Costs owed to the College, whether or not the Registrant has an active practice permit with the College; and
  - d. the Costs are a debt owed to the College and if not paid, may be recovered by the College by an action of debt.
3. Should the Registrant be successful in being reinstated with the College and reissued a practice permit, the usual terms of the costs payment, as per 82(3)(c) of the HPA shall apply, whereby Registrant may be automatically suspended for any then, or thereafter, outstanding non-payment of the costs as set out above in paragraph 2.
  4. For clarity and certainty, the Registrant is, in addition to what is set out in this Order, required to complete any and all requirements as have or may be imposed from the College’s Registration Department. This Order does not supersede or, if complied with, serve to satisfy any such requirements from the College’s Registration Department.

## **COMPLIANCE**

5. Compliance with this Order shall be determined by the Complaints Director of the College. All decisions with respect to the Registrant’s compliance with this Order will be in the sole discretion of the Complaints Director.
6. The Registrant will provide proof of completion of the above-noted Condition to the Complaints Director via e-mail to [procond@nurses.ab.ca](mailto:procond@nurses.ab.ca) or via fax at 780-453-0546.
7. Should the Registrant fail or be unable to comply with any of the requirements of this Order, or if any dispute arises regarding the implementation of this Order, the Complaints Director may exercise the authority under section 82(3) of HPA.
8. The responsibility lies with the Registrant to comply with this Order. It is the responsibility of the Registrant to initiate communication with the College for any anticipated non-compliance and any request for an extension.

## **CONDITIONS**

9. The Registrar of the College will be requested to put the following conditions against Registrant's registration and/or practice permit (current and/or future) and shall remain until the condition is satisfied:
  - a. ***Cancelled – Arising from Disciplinary Matter;*** and
  - b. ***Shall pay costs – Arising from Disciplinary Matter.***
10. Effective **December 7, 2022**, or the date of this Order if different from the date of the Hearing, notifications of the above condition shall be sent out to Registrant's current employers (if any), the regulatory college for Registered Nurses in all Canadian provinces and territories, and other professional colleges with which Registrant is also registered (if any).
11. Once Registrant has complied with the condition listed above, it shall be removed. Once the condition has been removed, the Registrar will be requested to notify the regulatory college of the other Canadian jurisdictions.
12. This Order takes effect **December 7, 2022**, or the date of this Order if different from the date of the Hearing, and remains in effect pending the outcome of any appeal, unless a stay is granted pursuant to section 86 of the HPA.

This Decision is made in accordance with Sections 80, 82 and 83 of the HPA.

Respectfully submitted,



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Grace Brittain, Chairperson  
On Behalf of the Hearing Tribunal

Date of Order: December 7, 2022