

COLLEGE OF REGISTERED NURSES OF ALBERTA (the “**College**”)

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF R.N. REGISTRATION #**111,918**

AS A RESULT OF A HEARING HELD BEFORE

THE HEARING TRIBUNAL

OF THE COLLEGE

11120 178 STREET

EDMONTON, ALBERTA

ON

APRIL 30, 2024

INTRODUCTION

A hearing was held on **April 30, 2024** at the College of Registered Nurses of Alberta (“**College**” or “**CRNA**”) by the Hearing Tribunal of CRNA to hear a complaint against R.N. registration #111,918.

Those present at the hearing were:

a. Hearing Tribunal Members:

Bonnie Bazlik, RN, Chairperson
 Kimberly Boyko, RN
 Kevin Kelly, Public Member
 Barbara Rocchio, Public Member

b. Independent Legal Counsel to the Hearing Tribunal:

Julie Gagnon

c. CRNA COUNSEL:

Kate Whittleton, Conduct Counsel

d. Registrant Under Investigation:

#111,918 (sometimes hereinafter referred to as “the **Registrant**”)

e. Registrant’s Labour Relations Officer:

Silvie Montier

PRELIMINARY MATTERS

Conduct Counsel and the Labour Relations Officer for the Registrant 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.

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.

Conduct Counsel noted that there was a preliminary matter to be addressed. The Hearing Tribunal heard submissions from the parties regarding the Registrant’s admission of unprofessional conduct pursuant to section 70 of the HPA.

Conduct Counsel submitted that the admission should be accepted in whole and that the substantive hearing should be held. The initial letter of complaint (the “**Complaint**”) and the Registrant’s letter admitting to unprofessional conduct (the “**Admission Letter**”) as well as additional enclosures were admitted as Exhibits 1 and 2 in the preliminary matter. Exhibit 2 contained documents regarding an application pursuant to section 65 of the HPA, which included

information collected from various witnesses at the time the submissions were made pursuant to section 65 of the HPA.

The Registrant's Labour Relations Officer noted that the information in the exhibits was included to provide a better picture of what occurred and because the Registrant wanted to ensure that the College understood that she was not providing the section 70 admission to avoid providing information, in particular text messages between herself and the patient at issue (the "**Patient**"). The Labour Relations Officer submitted that the Complaints Director misinterpreted certain information in the section 65 letter and that certain information in the letter was not supported by the witness statements. The Labour Relations Officer also noted that while the Registrant initially denied a sexual relationship with the Patient, a former patient, this was as a result of the Registrant's interpretation of the term "sexual relationship" and a misunderstanding of what amounted to sexual misconduct under the HPA.

The Hearing Tribunal adjourned to consider the preliminary matter. The hearing reconvened and the Hearing Tribunal advised the parties that it had reviewed the exhibits and considered the submissions of the parties and was prepared to accept the Registrant's admission under section 70 of the HPA. The hearing then moved into the substantive phase to consider whether the admitted conduct was unprofessional conduct.

ALLEGATIONS AND ADMISSION

The allegations in the Notice to Attend are as follows:

1. On or about October 15, 2023, the Registrant engaged in sexual misconduct towards [Patient 1] when, subsequent to the conclusion of the nurse-client relationship.
2. On or about October 10, 2023, and while working on a short-stay psychiatric unit, the Registrant displayed a lack of judgment, failed to maintain professional boundaries and/or acted outside the scope of their professional responsibilities when they provided their phone number to [Patient 1] for the purpose of, among other things, developing a personal acquaintance to discuss a shared interest in travelling to the Patient's home country, while [Patient 1] was under the Registrant's care.
3. On or about October 15, 2023, the Registrant displayed a lack of judgment, failed to maintain professional boundaries and/or acted outside the scope of their professional responsibilities when, subsequent to the conclusion of the nurse-client relationship, they visited [Patient 1], in person at his parents' residence where the Patient was staying.
4. Between October 10, 2023 and January 29, 2024, the Registrant displayed a lack of judgment, failed to maintain professional boundaries and/or acted outside the scope of their professional responsibilities when they did one (1) or more of the following:
 - a. Engaged in personal communications with [Patient 1] on multiple occasions, including but not limited to text messages, telephone calls and/or communications using audio/video technology; and/or
 - b. Participated in an inappropriate personal relationship with [Patient 1].
5. On or about January 31, 2024, when the Complaints Director first contacted the Registrant regarding the Complaint, the Registrant failed to demonstrate adequate judgment, and

failed to demonstrate honesty and integrity, when they were not forthright with the College of Registered Nurses of Alberta regarding their involvement with [Patient 1].

It is further alleged that the Registrant's conduct constitutes "unprofessional conduct", as defined in section 1(1)(pp)(i),(ii), and/or (xii) of the *Health Professions Act*, RSA 2000, c H-7 ("**HPA**"), and in particular:

1. The conduct underlying **Allegation 1**:
 - a. Constitutes "sexual misconduct" as defined by section 1(1)(nn.2) of the *HPA*; and/or
 - b. Contravenes *CRNA's Protection of Patients from Sexual Abuse and Sexual Misconduct Standards (2019)* ("**CPPSASMS**" or "**Protection of Patients Standards**").
2. Further, or in the alternative, the conduct underlying **Allegation 1**, or any part of it:
 - a. Contravenes one (1) or more of the following: *Canadian Nurses Association Code of Ethics (2017)* ("**CNACE**" or "**Code of Ethics**"); *CRNA's Practice Standards for Registrants (2023)* ("**CPSR**" or "**Practice Standards**"); *CRNA's Entry Level Competencies for the Practice of Registered Nurses (2019)* ("**CELCPRN**" or "**Entry Level Competencies**"); and/or
 - b. Contravenes *CRNA's Professional Boundaries: Guidelines for the Nurse-Client Relationship* ("**CPBG**" or "**Guidelines**"), contrary to the *CPSR*.
3. The conduct underlying **Allegations 2, 3 and 4**:
 - a. Contravenes one (1) or more of the following: *CNACE*; *CPSR*; *CELCPRN*; and/or
 - b. Contravenes *CPBG*, contrary to the *CPSR*.
4. The conduct underlying **Allegation 5**:
 - a. Contravenes one (1) or more of the following: *CNACE*; *CPSR*; *CELCPRN*.

The Registrant has admitted to the conduct in the allegations in the Agreed Statement of Facts and Liability (Exhibit #4).

EXHIBITS

The following documents were entered as Exhibits:

Exhibit #1 – Letter of Complaint dated January 29, 2024

Exhibit #2 – Admission Letter of the Registrant dated February 22, 2024 and Enclosures Folder

Exhibit #3 - Notice to Attend a Hearing by the Hearing Tribunal of the College

Exhibit #4 – Agreed Statement of Facts and Liability dated March 28, 2024

Exhibit #5 – Appendices to Agreed Statement of Facts and Liability

Exhibit #6 – Joint Recommendation on Sanction

Exhibit #7 – Interim Agreement dated March 28, 2024

Exhibit #8 – Professional Boundaries in Nursing Course Outline

Exhibit #9 – Excerpt from *Jaswal v. Newfoundland Medical Board*

Exhibit #10 – Affidavit from Christina Alexandropoulos

Exhibit #11 – Letter from [Patient's Mom] dated April 29, 2024

SUBMISSIONS ON THE ALLEGATIONS

Submissions by Conduct Counsel:

Conduct Counsel made submissions on the exhibits and reviewed the Agreed Statement of Facts and Liability. Conduct Counsel submitted that the conduct constitutes sexual misconduct as defined in section 1(1)(nn.2) of the HPA and is unprofessional conduct under sections 1(1)(pp)(i), (ii) and (xii) of the HPA.

Submissions by the Labour Relations Officer for the Registrant:

The Registrant's Labour Relations Officer noted that, given the admission, the investigation was not completed and the Registrant has not had the opportunity to give evidence. However, there is information in the exhibits in support of the allegations. The conduct by the Registrant is objectionable and does not meet the expectations of a registered nurse. The conduct represents a breach of boundaries and a lack of judgment by the Registrant.

The Labour Relations Officer submitted that the origin of the communications with the Patient was therapeutic. She was communicating with the Patient with empathy and care and trying to create a bond with the Patient. The communications progressed and became unacceptable.

Questions from the Hearing Tribunal:

The Hearing Tribunal requested clarification from the parties on Allegation 5 and how the Registrant failed to demonstrate judgment, honesty and integrity.

Conduct Counsel referred the Hearing Tribunal to paragraphs 14 to 16 of the section 65 recommendation (Exhibit 5, Appendix D) which references conversations between the Registrant and individuals at the College in the days following receipt of the Complaint. In the first communication on January 31, 2024, some information was provided by the Registrant. Different information was provided by the Registrant on February 1, 2024. While this may be attributed to the stress of a Complaint against the Registrant, the same information was not provided by the Registrant in both calls.

The Labour Relations Officer noted that when the Registrant spoke to the investigator, she admitted to the relationship with the Patient. Within a day, the Registrant was accepting some of

the allegations. The Registrant did not understand that a relationship with a former patient was a prohibited relationship.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON THE ALLEGATIONS

The Hearing Tribunal adjourned to review and consider the materials and submissions. The Hearing Tribunal finds that the allegations admitted to by the Registrant under section 70 of the HPA are proven. Based on the admissions of the Registrant, the Hearing Tribunal finds the following facts are proven.

Background

In April 2020, the Registrant graduated with a Bachelor of Nursing degree. In May 2020, the Registrant registered with the College as a Provisional Permit Holder (“**PPH**”) and in October 2020, as a Registered Nurse (“**RN**”). The Registrant does not have a discipline history with the College.

On January 29, 2024, the Complaints Director received the Complaint from a psychiatrist (the “**Complainant**”). The Complaint alleged that in the course of interviewing the Patient, the Patient disclosed an inappropriate sexual relationship with a nurse, who the Complainant ascertained was the Registrant. The Complaint further alleged that the Registrant was involved in the Patient’s care while the Patient was admitted to the Peter Lougheed Center (“**PLC**”) in October 2023, the Registrant phoned the Patient after he was discharged, and the Patient and the Registrant were involved in a sexual relationship, though the relationship was not ongoing at the time of the disclosure.

The Complaint was processed in accordance with Part 4 of the HPA. More specifically, the Complaint was referred to an investigation on January 31, 2024, pursuant to section 55(2)(d) of the HPA.

On February 9, 2024, the Complaints Director submitted a request for an interim suspension pursuant to section 65 of the HPA to the College’s Acting Deputy Registrar (the “**Section 65 Request**”). The Section 65 Request sought a full suspension of the Registrant’s practice permit or, in the alternative, direct buddied supervision of the Registrant. On February 16, 2024, the Registrant provided a response to the Section 65 Request.

On February 25, 2024, the Acting Deputy Registrar issued an order pursuant to section 65 of the HPA (the “**Section 65 Order**”). The Section 65 Order requires the Registrant to, inter alia, be under direct buddied supervision while practicing, at all times.

On February 26, 2024, the Registrant submitted the Admission Letter to the College’s Hearings Director pursuant to section 70 of the HPA. At the time the Admission Letter was received by the College, the investigation had not been concluded.

Facts Related to Allegations

The Hearing Tribunal finds, based on the facts presented and the admission by the Registrant that, while employed as a RN at the PLC in Calgary, Alberta, the Registrant’s practice fell below the standard expected of a RN when:

1. On or about October 15, 2023, the Registrant engaged in sexual misconduct towards the Patient when, subsequent to the conclusion of the nurse-client relationship.

2. On or about October 10, 2023, and while working on a short-stay psychiatric unit, the Registrant displayed a lack of judgment, failed to maintain professional boundaries and/or acted outside the scope of their professional responsibilities when they provided their phone number to the Patient for the purpose of, among other things, developing a personal acquaintance to discuss a shared interest in travelling to the Patient's home country, while the Patient was under the Registrant's care.
3. On or about October 15, 2023, the Registrant displayed a lack of judgment, failed to maintain professional boundaries and/or acted outside the scope of their professional responsibilities when, subsequent to the conclusion of the nurse-client relationship, they visited the Patient, in person at his parents' residence where the Patient was staying.
4. Between October 10, 2023 and January 29, 2024, the Registrant displayed a lack of judgment, failed to maintain professional boundaries and/or acted outside the scope of their professional responsibilities when they did one (1) or more of the following:
 - i. Engaged in personal communications with the Patient on multiple occasions, including but not limited to text messages, telephone calls and/or communications using audio/video technology; and/or
 - ii. Participated in an inappropriate personal relationship with the Patient.
5. On or about January 31, 2024, when the Complaints Director first contacted the Registrant regarding the Complaint, the Registrant failed to demonstrate adequate judgment, and failed to demonstrate honesty and integrity, when they were not forthright with the College regarding their involvement with the Patient.

The Hearing Tribunal finds that the proven conduct constitutes unprofessional conduct pursuant to section 1(1)(pp)(i), (ii) and (xii) of the HPA, which states:

"Unprofessional conduct" means one or more of the following, whether or not it is disgraceful or dishonourable:

- (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- (ii) contravention of this Act, a code of ethics or standards of practice;
- (xii) conduct that harms the integrity of the regulated profession.

The Hearing Tribunal also finds that the conduct in Allegation 1 constitutes sexual misconduct as defined in the HPA. The Hearing Tribunal considered sections 1(1)(nn.2) and (x.1) of the HPA, as follows:

- (nn.2) "sexual misconduct" means any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being but does not include sexual abuse;

- (x.1) “patient”, for the purposes of a complaint made in respect of unprofessional conduct in relation to sexual abuse or sexual misconduct, means a patient as set out in the standards of practice of a council.

The Registrant became involved in an inappropriate personal relationship with the Registrant. Subsequent to the termination of the nurse-client relationship. Pursuant to the Protection of Patients Standards, an individual is considered to be a “patient” for the purposes of the HPA provisions for a period of one year after the date of the last clinical encounter. As such, the Patient, continued to be a patient for the purposes of the *Protection of Patients Standards* and sections 1(1)(nn.2) and (x.1) of the HPA.

The Hearing Tribunal finds that the conduct in question, was objectionable and that the Registrant ought reasonably to have known that the incident would adversely affect the patient’s health and well-being. The Patient was a particularly vulnerable individual. The Patient had been hospitalized on the short stay psychiatry unit and was medically managed for symptoms of acute alcohol withdrawal, alcohol use disorder, stimulant use disorder, and suicidal ideation.

The Hearing Tribunal considered the following sections from the *Protection of Patients Standards*:

The nurse must:

- 1.1 take responsibility for maintaining therapeutic and professional boundaries;
- 1.2 not sexualize any interaction with a patient;
- 1.5 refrain from socializing or communicating with a patient for the purpose of pursuing a sexual relationship (CPSA, 2019);
- 1.8 seek impartial advice and refrain from any relationship with the individual if there is any doubt that the individual is still their patient; and
- 1.9 acknowledge that the nurse-patient relationship remains a professional relationship for a minimum of one year following the last clinical encounter.

The Hearing Tribunal considered the following sections from the *Code of Ethics*:

A. Providing Safe, Compassionate, Competent and Ethical Care

Nurses provide safe, compassionate, competent and ethical care.

Ethical responsibilities:

1. Nurses have a responsibility to conduct themselves according to the ethical responsibilities outlined in this document and in practice standards in what they do and how they interact with persons receiving care and other members of the **health-care team**.
3. Nurses build trustworthy relationships with persons receiving care as the foundation of meaningful communication, recognizing that building these relationships involves a **conscious** effort. Such relationships are critical to understanding people’s needs and concerns.

4. Nurses question, intervene, report and address unsafe, non-compassionate, unethical or incompetent practice or conditions that interfere with their ability to provide safe, compassionate, competent and ethical care; and they support those who do the same (see Appendix B).
5. Nurses are honest and take all necessary actions to prevent or minimize **patient safety incidents**. They learn from **near misses** and work with others to reduce the potential for future risks and preventable harms (see Appendix B).

C. Promoting and Respecting Informed Decision-Making

Nurses recognize, respect and promote a person's right to be informed and make decisions.

Ethical responsibilities:

4. Nurses are sensitive to the inherent power differentials between care providers and persons receiving care. They do not misuse that power to influence decision-making.

D. Honouring Dignity

Nurses recognize and respect the intrinsic worth of each person.

Ethical responsibilities:

1. Nurses, in their professional capacity, relate to all persons receiving care with respect.
2. Nurses support persons receiving care in maintaining their dignity and integrity.
6. Nurses utilize practice standards, best practice guidelines, policies and research to minimize risk and maximize safety, well-being and/or dignity for persons receiving care.
7. Nurses maintain appropriate professional **boundaries** and ensure their relationships are always for the benefit of the person. They recognize the potential vulnerability of persons receiving care and do not exploit their trust and dependency in a way that might compromise the **therapeutic relationship**. They do not abuse their relationship for personal or financial gain and do not enter into personal relationships (romantic, sexual or other) with persons receiving care.

E. Maintaining Privacy and Confidentiality

Nurses recognize the importance of privacy and confidentiality and safeguard personal, family and community information obtained in the context of a professional relationship.

Ethical responsibilities:

11. In all areas of practice, nurses safeguard the impact new and emerging technologies can have on patient privacy and confidentiality, **professional boundaries**, and the professional image of individual nurses and the organizations

in which they work (CNA, 2012). They are also sensitive to ethical conduct in their use of electronic records, ensuring accurate data entry and avoiding the falsification or alteration of documentation.

F. Promoting Justice

Nurses uphold principles of justice by safeguarding **human rights**, equity and **fairness** and by promoting the **public good**.

Ethical responsibilities:

8. Nurses work collaboratively to develop a moral community. As part of this community, all nurses acknowledge their responsibility to contribute to positive and healthy practice environments. Nurses support a climate of trust that sponsors openness, encourages the act of questioning the status quo and supports those who speak out in good faith to address concerns (e.g., **whistle-blowing**). Nurses protect whistle-blowers who have provided reasonable grounds for their concerns.

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, practice 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 practice with integrity in all of their professional interactions. Nurses represent themselves clearly with respect to name, title and role.
8. Nurses identify and address **conflicts of interest**. They disclose actual or potential conflicts of interest that arise in their professional roles and relationships and resolve them in the interest of the needs and concerns of persons receiving care.

The Hearing Tribunal considered the following sections from the *Practice Standards*:

The registrant:

- 1.1 is accountable at all times for their actions;
- 1.2 follows all current and relevant legislation and regulations;
- 1.3 meets expectations in the CRNA standards, and follows directions in guidelines, and other regulatory guidance;
- 2.4 exercises reasonable judgment and sets justifiable priorities in practice;
- 2.7 applies nursing knowledge and skill in providing safe, competent, ethical care and professional service; and
- 3.1 practises with honesty, integrity and respect;

- 3.2 identifies ethical issues and uses ethical and reasoned decision-making to resolve;
- 3.4 uses trauma and violence informed approaches to care for clients, and when interacting with essential care partners and with members of the health-care team;
- 3.6 ensures their relationships with clients are therapeutic and maintains professional boundaries;
- 4.3 establishes and maintains therapeutic relationships;

The Hearing Tribunal considered the following sections from the *Entry Level Competencies*:

- 2.1 Demonstrates ACCOUNTABILITY, accepts responsibility, and seeks assistance as necessary for decisions and actions within the legislated SCOPE OF PRACTICE.
- 2.2 Demonstrates a PROFESSIONAL PRESENCE, and confidence, honesty, integrity, and respect in all interactions.
- 2.3 Exercises professional judgment when using agency policies and procedures, or when practising in their absence.
- 2.5 Identifies the influence of personal values, beliefs, and POSITIONAL POWER on clients and the HEALTH-CARE TEAM and acts to reduce bias and influences.
- 2.6 Establishes and maintains PROFESSIONAL BOUNDARIES with clients and the health-care team.
- 2.7 Identifies and addresses ethical (moral) issues using ethical reasoning, seeking support when necessary.
- 2.8 Demonstrates professional judgment to ensure SOCIAL MEDIA and INFORMATION AND COMMUNICATION TECHNOLOGIES (ICTs) are used in a way that maintains public trust in the profession.
- 2.12 Recognizes, acts on, and reports unprofessional conduct to the appropriate person, agency or professional body.
- 3.3 Uses evidence-informed communication skills to build trusting, compassionate, and THERAPEUTIC RELATIONSHIPS with clients.
- 6.6 Demonstrates self-awareness through reflective practice and solicitation of feedback.
- 7.1 Recognizes and takes action in situations where client safety is actually or potentially compromised.

The Hearing Tribunal considered the *Guidelines*. The *Guidelines* recognizes that a client is in a vulnerable position when receiving health care and that there is a power differential because the client is vulnerable due to the knowledge the nurse has of the client's personal and medical information.

The Hearing Tribunal finds that the Registrant breached the following provisions in relation to Allegation 1: *Protection of Patients Standards* 1.1, 1.2, 1.5, 1.8, 1.9; Code of Ethics: Responsibilities A1, A3, A4, A5, C4, D1, D2, D6, D7, E11, F8, G1, G2, G8); *Practice Standards*: 1.1, 1.2, 1.3, 2.4, 3.1, 3.2, 3.4, 3.6, 4.3; *Entry Level Competencies* 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.12, 3.3, 6.6, 7.1); and the *Guidelines*, contrary *Practice Standards*1.3.

The Hearing Tribunal finds that the Registrant breached the following provisions in relation to Allegations 2, 3, and 4: Code of Ethics: Responsibilities A1, A3, A4, A5, C4, D1, D2, D6, D7, E11, F8, G1, G2, G8); *Practice Standards*1.1, 1.2, 1.3, 2.4, 2.7, 3.1, 3.2, 3.4, 3.6, 4.3; *Entry Level Competencies* 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.12, 3.3, 6.6, 7.1); and the *Guidelines*, contrary *Practice Standards*1.3.

The Hearing Tribunal finds that the Registrant breached the following provisions in relation to Allegation 5: Code of Ethics: Responsibilities G1, G2; *Practice Standards*1.1, 1.2, 1.3, 3.1, 3.2; *Entry Level Competencies* 2.1, 2.2, 2.7, 2.12).

The Registrant failed to enforce appropriate boundaries. The responsibility to do so is on the regulated member, not on a patient. The Registrant's conduct demonstrates a serious breach in her ethical responsibilities. She also failed to be accountable for her actions. The Registrant engaged in ongoing and inappropriate conduct in relation to the Patient which demonstrated a lack of self-awareness and reflective practice. Finally, the Registrant failed to be candid in her initial communications with the College. The breaches of the Practice Standards and the Code of Ethics are serious and constitute unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA.

The conduct in the Allegations occurred over a period of time. The Registrant had time to reflect on her ethical responsibilities and whether it was appropriate to pursue a personal relationship. In addition, the Patient was particularly vulnerable. Further, once contacted by the College, the Registrant provided differing information in response to the Complaint. The conduct of the Registrant represents a serious lack of judgment and is unprofessional conduct pursuant to section 1(1)(pp)(i) of the HPA. In addition, the conduct of the Registrant undermines the integrity of the profession of nursing and would affect the manner in which the profession is viewed by the public. The conduct is unprofessional conduct under section 1(1)(pp)(xii) of the HPA.

SUBMISSIONS ON SANCTION

The Hearing Tribunal heard submissions on the appropriate sanction.

Submissions by Conduct Counsel:

Conduct Counsel noted there was a joint submission on sanction and reviewed the Joint Recommendation on Sanction (Exhibit #6).

Conduct Counsel reviewed the proposed sanction, including a four month suspension. A suspension is required under section 81(1.1(b)) of the HPA where a finding of sexual misconduct is made. Conduct Counsel noted that the Registrant has not been able to practice by virtue of an interim agreement which was signed March 28, 2024. The suspension would start from the date of March 28, 2024 for a period of two months. The further two month suspension would be held in abeyance and will be stayed unless a further complaint regarding professional boundary

concerns is received or there is non-compliance with the Hearing Tribunal's direction. Conduct Counsel noted that the suspension will serve as a very strong deterrent for the conduct.

Conduct Counsel noted that the proposed penalty is designed to protect the public, maintain confidence in the profession and send an appropriate message to other members of the regulated profession. Conduct Counsel noted that denunciation and deterrence are legitimate factors in setting a sanction, but that the ultimate sanction must be measured, proportionate and reasonable.

Conduct Counsel reviewed the factors in the decision of *Jaswal v. Newfoundland Medical Board* and how those factors applied to the present case.

1. The nature and gravity of the proven allegations: The allegations are very serious. Interactions of a sexual nature are unethical and are considered a serious breach of trust. There were serious boundary violations and a lack of candor with the College when the complaint was first received. The joint submission on sanction reflects the serious nature of the conduct.
2. The age and experience of the member: The Registrant was registered in 2020. She was a relatively new member of the profession. This is a mitigating factor.
3. The previous character of the member: The Registrant does not have any prior findings of unprofessional conduct.
4. The age and mental condition of the offended patient: The Patient was very vulnerable. He was admitted to a short stay psychiatric unit at a hospital and later entered into residential treatment. He was diagnosed with PTSD and alcohol and stimulant use disorder. The Registrant was in a position of power over the Patient and the obligation of maintaining professional boundaries is on a regulated member, not a patient, regardless of the Patient's circumstances.
5. The number of times the offence was proven to have occurred: There were interactions that occurred at the hospital and the exchange of the telephone number, then there was the interaction outside the hospital on October 15, which was a one time occurrence. There were communications that followed before and after the Patient's time in residential treatment.
6. The role of the registered nurse in acknowledging what occurred: The Registrant admitted to the allegations and made an admission pursuant to section 70 of the HPA. This is a mitigating factor.
7. Whether the member has already suffered other serious financial or other penalties: The Complaint was not submitted by the Registrant's employer. However, since February 25, 2024, the Registrant was subjected to the condition that she work under direct supervision arising from the Section 65 Order.
8. The impact on the offended patient: Conduct Counsel referred to an Affidavit from her assistant which attached a letter sent to the Patient on April 8, 2024 to advise him of his right to make an impact statement. It is not known whether that letter was received by the Patient, although the Patient's mother did provide a letter to the College (Exhibit 11).

9. The presence or absence of any mitigating factors: Conduct Counsel was not aware of further mitigating factors other than those already presented.
10. The need to promote specific and general deterrence: General deterrence is paramount to ensuring that others are aware of the consequences for sexual misconduct and boundary violations. Specific deterrence is achieved based on the proposed sanctions.
11. The need to maintain public confidence: Conduct Counsel noted the statutory mandate of the College to protect and serve the public interest.
12. The degree to which the conduct was regarded by consensus as being the type of conduct that would fall outside the range: The conduct is clearly outside the range of acceptable conduct.

Conduct Counsel submitted that the joint recommendation sends the appropriate message to the public that the College will not minimize sexual misconduct allegations. The joint submission embodies a strong denunciation of the conduct. The proposed orders also have a remedial aspect including coursework, counselling and a substantial improvement plan.

With respect to an impact statement, Conduct Counsel noted that she was satisfied that reasonable efforts were made to allow the Patient to make a statement pursuant to section 81.1(2) of the HPA. A letter from the Patient's mother was received. While the letter does not meet the technical requirements of section 81.1(2) of the HPA, the Complaints Director wanted to be transparent and allow the Hearing Tribunal to determine what consideration to give to the letter.

Submissions by the Labour Relations Officer for the Registrant:

The Registrant's Labour Relations Officer noted that the Registrant's admission shows accountability for her conduct. There was a misunderstanding of the boundaries. The proposed orders will assist the Registrant to better understand boundary issues. The Labour Relations Officer noted the financial impact of a suspension and the Registrant's financial and personal circumstances. The Labour Relations Officer submitted that protection of the public was one of the most important factors and that the joint submission on sanction addresses public protection.

With respect to Exhibit 11, the Labour Relations Officer noted that the Patient's mother was not presenting her point of view, but rather stating what her son, the Patient, has said. This represents the impact as stated by the Patient, as the mother has no interest in the matter.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON SANCTION

The Hearing Tribunal adjourned to consider the submissions on sanction. The Hearing Tribunal has carefully considered the exhibits, including the joint submission on sanction and the submissions of the parties.

The Hearing Tribunal has considered the factors noted in *Jaswal v. Newfoundland Medical Board* and considered the high level of deference owed to a joint submission on sanction. The Hearing Tribunal finds that the recommended sanction appropriately considers the factors in *Jaswal*.

The Hearing Tribunal accepts the joint recommended sanction. The joint recommended sanction takes into account the nature and seriousness of the conduct. The joint recommended sanction also addresses the issues that brought the Registrant before this Hearing Tribunal. The joint

recommended sanction balances the principles of denunciation and deterrence with the duty to be measured, proportionate and reasonable.

The reprimand and suspension are appropriate and speak to the seriousness of the conduct. Sexual misconduct must attract a suspension and the proposed suspension in this case appropriately reflects the severity of the case. The course, paper and Behavior Improvement Plan are remedial in nature and will provide the Registrant an opportunity for self-reflection and education on boundary issues. The Hearing Tribunal viewed that a course and paper on professional boundaries were required to address the serious concerns arising from the Registrant's conduct. The boundary violations in this case were not a result of a hasty decision, but occurred over a significant amount of time. In addition, the requirement for counselling aims to ensure further self-reflection and awareness. The education, counselling and letter from the Supervisor will also serve to protect the public interest.

The Hearing Tribunal finds that the recommended sanction appropriately protects the public. It strives to ensure that this conduct is not repeated by the Registrant. Should similar conduct re-occur or if the Registrant fails to comply with the Hearing Tribunal's orders, the College has a recourse to impose the remainder of the suspension. This will help to protect the public. The proposed sanction will also serve to educate other members of the profession on how the College treats such conduct and it maintains the public's confidence in the integrity of the profession. The proposed sanction strikes an appropriate balance between the principles of denunciation and deterrence and the need for a measured, proportionate and reasonable sanction.

ORDER OF THE HEARING TRIBUNAL

The Hearing Tribunal orders that:

1. The Registrant shall receive a reprimand for unprofessional conduct.
2. By **October 1, 2024**, the Registrant shall provide a certificate of completion, satisfactory to the Complaints Director that they have successfully completed and passed the following courses of study and learning activities:
 - a. Professional Boundaries in Nursing (John Collins Consulting).
3. By **August 1, 2024**, the Registrant shall write and submit a paper to the Complaints Director, which must be deemed satisfactory to the Complaints Director. The paper shall:
 - a. be titled "The Importance of Professional Boundaries and Protecting Patients from Sexual Misconduct";
 - b. be at least one thousand five hundred (1500) words in length;
 - c. be typed and comply with professional formatting guidelines (American Psychological Association style);
 - d. demonstrate an understanding of professional boundaries, the importance of maintaining professional boundaries, and protecting patients from sexual misconduct;

- e. Include a specific analysis of how the failures to professional boundaries and protecting patients of the health care team are harmful to:
 - i. the public (patients, families and communities);
 - ii. the reputation of the profession of nursing; and
 - iii. the Registrant's own career;
 - f. demonstrate insight into why the conduct of the Registrant, as outlined in the Decision of the Hearing Tribunal, was unacceptable, citing specific sections of the *Canadian Nurses Association Code of Ethics (2017)* ("**Code of Ethics**"), the *Practice Standards for Registrants (2023)* ("**Practice Standards**"), and the *Protection of Patients from Sexual Abuse and Sexual Misconduct Standards (2019)* ("**Protection of Patients Standards**"); and
 - g. have a bibliography of at least **five (5)** references (no older than ten years old), one of which must be the CRNA *Practice Standards* and *Code of Ethics* and others of which must be from academic journals or textbooks.
4. The Registrant's College practice permit shall be suspended for a period of **four (4) months**, on the following terms and conditions:
- a. While suspended, the Registrant shall not work or practice as a Registrant (Registered Nurse ("**RN**"), Nurse Practitioner ("**NP**"), or Provisional Permit Holder ("**PPH**")), whether as a paid or unpaid employee, a volunteer, a contractor or a student in a clinical setting.
 - b. The Registrant's College practice permit shall be initially suspended for a period of **two (2) months** commencing the day after the date all of the following documents are fully executed by the Parties:
 - i. Joint Recommendation on Sanction;
 - ii. Agreed Statement of Facts and Liability; **and**
 - iii. Interim Agreement.
 - c. The remaining two (2) months suspension shall be held in abeyance for a period of **two (2) years** after the date of the Hearing unless:
 - i. The Registrant fails to comply with any term of the Hearing Tribunal's Order; or
 - ii. A further complaint against the Registrant is received by the College, or initiated by the Complaints Director pursuant to section 56 of the *HPA*, that:
 - 1) in the opinion of the Complaints Director, raises professional boundary concerns; and
 - 2) is not dismissed under section 55(2) of the *HPA*.

- d. On the happening of either paragraph 4(c)(i) or paragraph 4(c)(ii), the Complaints Director shall be at liberty to impose, immediately and without notice, the remaining two (2) months suspension on the Registrant's College practice permit, including the necessary condition "***Suspended – Arising from Disciplinary Matter***".
 - e. If neither of paragraph 4(c)(i) or paragraph 4(c)(ii) occur within two (2) years from the date of the Hearing, the remaining two (2) month suspension shall expire.
 - f. For clarity, nothing in this paragraph shall affect the Complaints Director's powers under the *HPA* to act on a new complaint.
5. By **August 1, 2024**, the Registrant shall provide to the Complaints Director a self-improvement plan for maintaining professional boundaries with patients ("**Behavior Improvement Plan**"). The Behavior Improvement Plan must be satisfactory to the Complaints Director and must:
- a. Be typed and comply with professional formatting guidelines (American Psychological Association style);
 - b. Be at least **five hundred (500)** words in length;
 - c. Include a list of least **five (5)** behaviours that could be construed as boundary violations (that list must include the behaviours that are the subject of the Hearing);
 - d. Include a written plan of how to avoid committing the five (5) listed boundary violations that describes how the Registrant will avoid committing boundary violations, including strategies, plans and supports or resources that may assist them;
 - e. Include a list of indicators that will tell the Registrant the strategies for avoiding boundary violations are effective;
 - f. Cite at least six (6) applicable standards and responsibilities from the following:
 - i. the *Practice Standards*;
 - ii. the *Code of Ethics*; and
 - iii. the *Protection of Patients Standards*.
6. For a period of eighteen (**18**) months from the date of the Hearing, or such other date as ordered by the Hearing Tribunal if different from the date of the Hearing, the Registrant shall provide a letter ("**Notification Letter**") to the Complaints Director from their Supervisor at any new or prospective employer, or at any other entity for whom the Registrant will complete any type of nursing practice hours as a registrant of the College (RN, NP or PPH) that confirms the following:
- a. The Supervisor's contact information and role;
 - b. The Supervisor has received and reviewed a copy of the Hearing Tribunal's Decision, including the allegations/admissions, findings and Order; and

- c. The Supervisor agrees to immediately report any concerns regarding the Registrant's practice as a RN to the Complaints Director.
7. The Registrant shall undergo counseling with a counselor (psychologist, psychiatrist or other health care professional approved by the Complaints Director), who has knowledge of the therapeutic communications and boundaries expected of a registered nurse, to assist the Registrant improve their understanding of appropriate professional boundaries with patients and protecting patients from sexual misconduct and sexual abuse. The Registrant shall provide a report from the counselor by **October 1, 2024**, which must be satisfactory to the Complaints Director, and which must include the following information:
- a. Confirmation that the counselor has received and reviewed a copy of the Decision of the Hearing Tribunal, including the allegations/admissions, findings and Order;
 - b. Confirmation that the Registrant has attended a minimum of **three (3)** counselling sessions since the date of the Hearing, which is to be determined, or such other date as ordered by the Hearing Tribunal if different from the date of the Hearing;
 - c. A description of the work that has been done with the Registrant to mentor, coach and assist the Registrant to improve their understanding of appropriate professional boundaries with patients and the importance of protecting patients from sexual misconduct and sexual abuse; and
 - d. Confirmation that, in the opinion of the counselor, the Registrant has demonstrated insight into the inappropriateness of the behaviors described in the Decision, and in the opinion of the counselor is unlikely to violate those boundaries in future or enter into personal relationships, of any kind, with patients.

(the "**Condition(s)**")

COMPLIANCE

- 8. 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.
- 9. The Registrant will provide proof of completion of the above-noted Conditions to the Complaints Director via e-mail to procond@nurses.ab.ca or via fax at 780-453-0546.
- 10. 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.
- 11. 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

- 12. The Registrant understands and acknowledges:

- a. pursuant to section 119 of the HPA, and section 33(1) of the *Registered Nurses Profession Regulation*, Alta Reg 232/2005, it is the Registrant's professional obligation to immediately inform the College of any changes to the Registrant's employers, and employment sites, including self-employment; and
 - b. employment is defined in section 57(3) of the HPA as being engaged to provide professional services as a RN on a full-time, part-time, casual basis as a paid or unpaid employee, consultant, contractor or volunteer.
13. The Registrant confirms the following list sets out all the Registrant's employers and includes all employers even if the Registrant is self-employed, under an undertaking to not work, is on sick leave or disability leave, or if the Registrant had not been called to do shifts, but could be called:

Employer Name	Employer Address & Phone Number
Peter Lougheed Centre	3500 Avenue NE Calgary, AB T1Y 6J4

14. The Registrar of the College will be requested to put the following conditions against the Registrant's practice permit (current and/or future) and shall remain until the conditions are satisfied:
- a. ***Course work required – Arising from Disciplinary Matter;***
 - b. ***Essay Required – Arising from a Disciplinary Matter;***
 - c. ***Suspended – Arising from Disciplinary Matter;***
 - d. ***Behavior Improvement Plan required – Arising from Disciplinary Matter;***
 - e. ***Employer notification(s) required - Arising from Disciplinary Matter;*** and
 - f. ***Counselling required – Arising from Disciplinary Matter.***
15. Effective on the date of the Hearing, or the date of this Order if different from the date of the Hearing, notifications of the above condition shall be sent out to the Registrant's current employers (if any), the regulatory college for Registered Nurses in all Canadian provinces and territories, and other professional colleges with which the Registrant is also registered (if any).
16. Once the Registrant has complied with a condition listed above, it shall be removed. Once all the conditions have been removed, the Registrar will be requested to notify the regulatory colleges in the other Canadian jurisdictions.
17. This Order takes effect on 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,

A handwritten signature in black ink on a light-colored background. The signature is written in a cursive style and reads "Bazlik".

Bonnie Bazlik, Chairperson
On Behalf of the Hearing Tribunal

Date of Order: April 30, 2024