



COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF **HOSIN KEE**, R.N., REGISTRATON NUMBER 86,172

AS A RESULT OF A HEARING HELD BEFORE

THE HEARING TRIBUNAL

OF THE

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA

11120 178 STREET

EDMONTON, ALBERTA

ON

NOVEMBER 27, 2019

INTRODUCTION

A hearing was held on November 27, 2019 at the College and Association of Registered Nurses of Alberta by the Hearing Tribunal of the College and Association of Registered Nurses of Alberta (CARNA) to hear a complaint against Hosin Kee, R.N., Registration Number 86,172.

Those present at the hearing were:

a. Hearing Tribunal Members:

Susan Derk, Chair
Christa Eaton
Nancy Goddard
David Rolfe, Public Representative

b. Observers (Hearing Tribunal Orientation):

Jofrey Wong
Tracey Komant

c. Independent Legal Counsel to the Hearing Tribunal:

Mary Marshall
James Hart, Observer

d. CARNA Representative:

Kate Whittleton, Conduct Counsel

e. CARNA Member Under Investigation:

Hosin Kee (sometimes hereinafter referred to as “the Member” or “the Regulated Member”)

f. CARNA Member’s Representative:

Katie McGreer, Labour Relations Officer, United Nurses of Alberta

PRELIMINARY MATTERS

Conduct counsel and the Member’s representative 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.

Pursuant to section 78 of the HPA, the hearing is open to the public.

ALLEGATIONS

The allegations in the Notice to Attend were as follows:

While employed as a Registered Nurse at the University of Alberta Hospital, Edmonton, Alberta, your practice fell below the standard expected of an RN when:

1. On or about November 12, 2017, when caring for [patient 1] who was experiencing multi-system organ failure, you:
 - a. Failed to complete and/or document the initial patient assessments including but not limited to pain, neurological, respiratory and cardiovascular assessments;
 - b. Failed to complete and/or document q 1h. assessments between 1137 and 1302 when the care was assumed by another care provider, colleague [RN co-worker];
 - c. Failed to document your handover of care to colleague [RN co-worker];
 - d. Failed to recognize that the manual blood pressure was giving a false reading which led to you attempting to decrease Levophed which was contraindicated.
2. On or about November 20, 2017, when caring for [patient 2] who was experiencing Atrial Fibrillation, you:
 - a. Failed to recognize the need and seek assistance in the management of care;
 - b. Failed to recognize an inappropriate route of administration for Amiodarone;
 - c. Failed to demonstrate knowledge of safety checks including but not limited to patient identifiers, IV compatibles, medications, MAR;
 - d. Failed to complete proper safety checks in a timely manner, or at all;
 - e. Failed to complete and/or document accurate assessments, clinical care including turns, eye, mouth and catheter care, in a timely manner or at all.

As part of the consent hearing process, the College agreed to amend the Allegations as follows:

While employed as a Registered Nurse at the University of Alberta Hospital, Edmonton, Alberta, your practice fell below the standard expected of an RN when:

1. On or about November 12, 2017, when caring for [patient 1] who was experiencing multi-system organ failure, you:
 - a. Failed to complete and/or document the initial patient assessments including but not limited to pain, neurological, respiratory and cardiovascular assessments;
 - b. Failed to complete and/or document q 1h. assessments between 1137 and 1302 when the care was assumed by another care provider, colleague [RN co-worker];
 - c. [**Withdrawn**]

- d. [**Amended**] Failed to recognize that the manual blood pressure was giving a false reading and attempted to decrease Levophed which was contraindicated.

(“**Allegation 1**”)

- 2. On or about November 20, 2017, when caring for [patient 2] who was experiencing Atrial Fibrillation, you:
 - a. Failed to recognize the need and seek assistance in the management of care;
 - b. [**Withdrawn**];
 - c. [**Amended**] Failed to demonstrate knowledge of medications and safety checks including but not limited to patient identifiers, IV compatibles, and MAR;
 - d. Failed to complete proper safety checks in a timely manner, or at all;
 - e. Failed to complete and/or document accurate assessments, clinical care including turns, eye, mouth and catheter care, in a timely manner or at all.

(“**Allegation 2**”);

The matter proceeded by way of a Consent Agreement.

EXHIBITS

The following documents were entered as Exhibits:

NUMBER	DESCRIPTION
Exhibit #1:	Notice to Attend a Hearing to Hosin Kee dated September 12, 2019
Exhibit #2:	Consent Agreement between Hosin Kee and conduct counsel
Exhibit #3:	CARNA Practice Standards for Regulated Members and 2017 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses
Exhibit #4:	Joint Recommendations on Sanction and Compliance
Exhibit #5:	MacEwan University Course Outlines for “Clinical Nursing Skills Refresher”, NURS 0334; and “Documentation in Nursing”, NURS 0162
Exhibit #6:	Excerpt from <i>Jaswal v. Newfoundland Medical Board</i> , (1996), 42 Admin L.R. (2d) 233 (Nfld S.C.), at para. 36 (“ <i>Jaswal</i> ”)

SUBMISSIONS ON THE ALLEGATIONS

Conduct counsel made brief submissions on the allegations. The Member has admitted to the following conduct, and agrees that these behaviours constitute unprofessional conduct.

While employed as a Registered Nurse at the University of Alberta Hospital, Edmonton, Alberta, your practice fell below the standard expected of an RN when:

1. On or about November 12, 2017, when caring for [patient 1] who was experiencing multi-system organ failure, you:
 - a. Failed to complete and/or document the initial patient assessments including but not limited to pain, neurological, respiratory and cardiovascular assessments;
 - b. Failed to complete and/or document q 1h. assessments between 1137 and 1302 when the care was assumed by another care provider, colleague [RN co-worker];
 - c. [**Withdrawn**]
 - d. [**Amended**] Failed to recognize that the manual blood pressure was giving a false reading and attempted to decrease Levophed which was contraindicated.

(“**Allegation 1**”)

2. On or about November 20, 2017, when caring for [patient 2] who was experiencing Atrial Fibrillation, you:
 - a. Failed to recognize the need and seek assistance in the management of care;
 - b. [**Withdrawn**];
 - c. [**Amended**] Failed to demonstrate knowledge of medications and safety checks including but not limited to patient identifiers, IV compatibles, and MAR;
 - d. Failed to complete proper safety checks in a timely manner, or at all;
 - e. Failed to complete and/or document accurate assessments, clinical care including turns, eye, mouth and catheter care, in a timely manner or at all.

(“**Allegation 2**”);

Conduct counsel submitted that Section (1)(pp)(i) and (ii) of the HPA applied. Conduct counsel submitted that the following provisions of the CARNA Practice Standards for Regulated Members (“Practice Standards”) apply:

Standards: 1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 3.3, 3.4, 4.2, 4.3, 5.2, 5.3, 5.5, 5.6.

Conduct counsel further submitted the following provisions of the 2017 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses (“Code of Ethics”) apply:

Code of Ethics Responsibilities A1, 6, 7, and 12; B1 and 4; D6; and G1, 3, and 4.

The Hearing Tribunal adjourned to consider the materials and submissions.

The Hearing Tribunal reconvened and asked the parties for submissions on the applicability of Section 1(pp)(xii) of the HPA, Practice Standard 4.1, and Code of Ethics Responsibility A5.

After a brief adjournment, conduct counsel and the Member's representative confirmed that there were no additional submissions regarding Section 1(pp)(xii) of the HPA, the Practice Standards, or Code of Ethics.

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 orders that the allegations be amended as set out in the Consent Agreement between the Member and conduct counsel (Exhibit #2) and finds that the allegations admitted to by the Member are proven.

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 finds that the Member breached the following provisions of the Practice Standards and Code of Ethics:

Practice Standards: 1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 3.4, 4.1, 4.2, 5.2, 5.3, 5.5, 5.6.

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.
- 1.4 The nurse practices competently.

Standard Two: Knowledge-Based Practice

The nurse continually acquires and applies knowledge and skills to provide competent, **evidence-informed** nursing care and service.

Indicators

- 2.1 The nurse supports decisions with evidence-based rationale.
- 2.2 The nurse uses appropriate information and resources that enhance client care and the achievement of desired client outcomes.
- 2.3 The nurse uses **critical inquiry** in collecting and interpreting data, planning, implementing and evaluating all aspects of their nursing practice.
- 2.4 The nurse exercises reasonable judgment and sets justifiable priorities in practice.
- 2.5 The nurse documents timely, accurate reports of data collection, interpretation, planning, implementation and evaluation of nursing practice.
- 2.7 The nurse applies nursing knowledge and skill in providing safe, competent, ethical care and service.

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).

Indicator

- 3.4 The nurse communicates effectively and respectfully with clients, significant others and other members of the health care team to enhance client care and safety outcomes.

Standard Four: Service to the Public

The nurse has a duty to provide safe, competent and ethical nursing care and service in the best interest of the public.

Indicators

- 4.1 The nurse coordinates client care activities to promote continuity of **health services**.
- 4.2 The nurse collaborates with the client, significant others and other members of the **health-care team** regarding activities of care planning, implementation and evaluation.

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.
- 5.5 The nurse practices within their own level of **competence**.
- 5.6 The nurse regularly assesses their practice and takes the necessary steps to improve personal competence.

Code of Ethics Responsibilities A1, 5, 6, 7 and 12; B1 and 4; D6; and G1, 3 and 4.

A. Providing Safe, Compassionate, Competent and Ethical Care

Nurses provide safe, compassionate, competent and ethical care.

Ethical responsibilities:

- A1 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**.
- A5 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).
- A6 Nurses practise “within their own level of competence and seek [appropriate] direction and guidance . . . when aspects of the care required are beyond their individual competence” (Licensed Practical Nurses Association of Prince Edward Island [LPNAPEI], Association of Registered Nurses of Prince Edward Island, & Prince Edward Island Health Sector Council, 2014, p. 3).
- A7 When resources are not available to provide appropriate or safe care, nurses collaborate with others to adjust priorities and minimize harm. Nurses keep persons receiving care informed about potential and actual plans regarding the delivery of care. They inform employers about potential threats to the safety and quality of health care.
- A12 Nurses foster a safe, quality practice environment (CNA & Canadian Federation of Nurses Unions [CFNU], 2015).

B. Promoting Health and Well-Being

Nurses work with persons who have health-care needs or are receiving care to enable them to attain their highest possible level of health and well-being.

Ethical responsibilities:

- B1 Nurses provide care directed first and foremost toward the health and well-being of persons receiving care, recognizing and using the values and principles of **primary health care**.
- B4 Nurses collaborate with other health-care providers and others to maximize health benefits to persons receiving care and with health-care needs and concerns, recognizing and respecting the knowledge, skills and perspectives of all.

D. Honouring Dignity

Nurses recognize and respect the intrinsic worth of each person.

Ethical responsibility:

- D6 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.

G. Being Accountable

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

Ethical responsibilities:

- G1 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.
- G3 Nurses practise within the limits of their competence. When aspects of care are beyond their level of competence, they seek additional information or knowledge, report to their supervisor or a competent practitioner and/or request a different work assignment. In the meantime, nurses remain with the person receiving care until another nurse is available.
- G4 Nurses are accountable for their practice and work together as part of teams. When the acuity, complexity or variability of a person's health condition increases, nurses assist each other (LPNAPEI et al., 2014).

The breaches of the Practice Standards and the Code of Ethics are serious and constitute unprofessional conduct. The Member is accountable for his practice and must practise in accordance with the Practice Standards and Code of Ethics. The Member's conduct also harms the integrity of the regulated profession.

The Guidelines for Charting – Using eCritical Meta Vision and Paper Medical Records (Appendix G of Exhibit 2) and Standards for Care of Patients in E. Garner King Critical Care Unit and Firefighter’s Burn Treatment Unit (Appendix I of Exhibit 2) are clear and provide well-documented expectations for registered nurses. These expectations were not met, and other nurses intervened to ensure that patients were not harmed.

SUBMISSIONS ON SANCTION AND COMPLIANCE

The Hearing Tribunal heard submissions on the appropriate sanction and compliance.

Submissions by Conduct Counsel:

Conduct counsel noted there was a joint recommendation on sanction and compliance, except for one provision relating to the Performance Evaluation. Specifically, there is no agreement regarding paragraph 4(g) of the Joint Recommendations (“paragraph 4(g)”), which provides as follows:

4. The terms of the Performance Evaluation are as follows:
 - g. The RN Manager will confirm that the Regulated Member was never the only RN on duty on the unit (a unit means approximately no more than 60 patients in close physical proximity) and that there was always at least one (1) other RN working with him, on the same shift, on the same unit.

Conduct counsel reviewed in detail the joint recommendations (Exhibit #4). Conduct counsel made submissions regarding paragraph 4(g) and why it should stand. The Member is currently employed at a long-term care facility operated by the Good Samaritan Society. This is a different practice setting from the one where the problems occurred. The conduct that is the subject of this hearing occurred while the Member was working at the University of Alberta Hospital on the General Systems Intensive Care Unit (“GSICU”). The GSICU provides life support to critically ill adult patients with serious, life threatening illnesses from a variety of causes. Conduct counsel noted that, although the level of observation by other RNs in the Member’s current practice setting is quite different from the previous setting, this observation is an integral part of obtaining feedback about this Member. If the Member is the only RN on the unit, there is very limited scope for meaningful oversight. This type of oversight is necessary having regard to the admitted conduct. The Member failed to recognize when he required assistance in management of care and failed to seek that assistance. There is a serious risk that the Member will not seek out the necessary support if he is the only RN. There must be sufficient clinical support in order to protect the public. Otherwise the ability to report timely concerns regarding the Member’s conduct will be severely diminished.

The performance evaluation period will commence after the Member has provided satisfactory proof that he has completed the Clinical Nursing Skills Refresher (NURS 0334 – MacEwan University). As such, the condition in paragraph 4(g) will not be in place immediately. CARNA is not asking for a supervised practice setting. However, another RN should be available to the Member.

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:*

These are very serious allegations. The Member, while working on the GSICU on two separate occasions, failed to ask for assistance when required. The Member failed to demonstrate knowledge of and complete safety checks and failed to demonstrate knowledge of medications and medication administration.

2. *The age and experience of the member:*

The Member has been registered since August 2008.

3. *The previous character of the member:*

The Member has no prior formal disciplinary history, which is considered to be a mitigating factor.

4. *The age and mental condition of the offended patients:*

Two patients were affected. [Patient 1] from the November 12, 2017 incident was a [age and sex redacted] who was very sick with multi-system organ failure. [Patient 2] from the November 20, 2017 incident was a [age and sex redacted] with atrial fibrillation that required ongoing monitoring. Both patients were considered very vulnerable and seriously ill.

5. *The number of times the offence was proven to have occurred:*

There are two instances which occurred on November 12, 2017 and November 20, 2017.

6. *The role of the registered nurse in acknowledging what occurred:*

The Member admitted that the allegations constitute unprofessional conduct and changed his practice setting, which are considered to be mitigating factors.

7. *Whether the member has already suffered serious financial or other penalties:*

The Member was given a three-day suspension by his employer. There is no evidence of other penalties.

8. *The impact on the offended patient:*

There was no evidence of serious harm to either patient, other than the administration of care was not up to standard. It is noted that other RN's intervened in the care of both patients. The Member's treatment of each patient did have an overall impact on their care.

9. *The presence on absence of mitigating factors:*

The mitigating factors have already been addressed.

10. *The need to promote specific and general deterrence:*

There is a need to impress upon the Member the severity of these allegations to make sure that he no longer conducts the practice of nursing in this manner. The Member will undergo a more fulsome performance evaluation after 1,000 hours. Although patients are different in long-term care, the fundamental issues could also arise in the new setting; therefore, this remains a concern, and an order is needed. Assessing blood pressure and using equipment appropriately are important, and assessments need to be done and reported in a timely manner. General deterrence is needed, and a message needs to be sent to the members that the conduct resulting in these allegations will not be tolerated.

11. *The need to maintain public confidence:*

This is accomplished through an order and publication. The Member's employer will also be aware of the matter.

12. *Degree to which offensive conduct is outside range of permitted conduct:*

Conduct counsel noted that, with respect to these last two factors, the Member's conduct is clearly unacceptable. The Member has acknowledged this. There is agreement on all other aspects of the proposed order except for paragraph 4(g). The order as drafted is appropriate and allows CARNA to maintain oversight over the Member, as well as remediate concerns that were brought to the attention of CARNA.

Submissions by the Representative for the Member:

The Member's representative submitted that the Member respects CARNA's mandate regarding the maintenance of public trust and the safety of patients. The Member has admitted that the allegations constitute unprofessional conduct. The concern of the Member is that he cannot bind his employer to paragraph 4(g) because he is unsure about whether or not his employer will be able to fulfill that condition.

The Member was called to testify.

Member's Evidence:

In response to questions from the Member's representative, the Member stated that he has worked for the Good Samaritan Society, Southgate Centre ("Southgate Centre"), since June 2018. There are three floors at the Southgate Centre, and each floor has a RN. The Member works the evening shift exclusively. The shift starts at 1500. There is an RN manager on call who is always available. However, there is not another RN on the unit during the Member's shift. Two RN managers are available during the day shift, but they leave at 1700 or 1800. The Member is in a permanent 0.7 FTE evening position.

The Member has not been subject to any discipline and has not been investigated for any issues. The patients are residents of the facility who are not stable enough to live independently. However, most are very stable, suffering from age related issues, and only need a little bit of help. This is different from the GSICU where there were very sick patients who needed acute intensive care. At the Southgate Centre, when medical assistance is required, the question is whether to send patients to the hospital. The Member stated that he is very comfortable working at the current setting.

In response to questions from conduct counsel during cross-examination, the Member stated that there were 72 beds available on his floor. As such, there could be 72 residents on his unit. There is never a time when another RN would be on the Member's floor during his shift, other than the RN manager. There are two RN managers on duty during the day shift, but the Member is the only RN on the floor during the evening shift. There is the same staffing for all floors at the Southgate Centre. The Member has not discussed with his employer the possibility of having another RN with him in order to complete the performance evaluation requirements. The Member states that he performs better on the evening shift and has not asked about the day shift. At present, there are no positions available on the day shift.

Additional submissions by the Representative for the Member:

At the conclusion of the Member's testimony, the Member's representative made additional submissions. Paragraph 4(g) will compromise the Member's employment relationship if it is included as part of the order of the Hearing Tribunal. The RN managers are there for a portion of the Member's shift, and the RNs carry phones and can call each other for assistance. However, given the staffing at the Southgate Centre, it is impossible for the Member to commit to paragraph 4(g). The Member's representative submitted that there may be other ways of engaging with a RN manager in order to provide oversight and a robust and thorough evaluation. There should be opportunities for the Member to be observed and the RN manager to collect information. The Member has been working at the Southgate Centre since June 2018 without any issues, and he would like to continue with this employment relationship. The RN manager may not be able to commit to the strict wording of paragraph 4(g), and this would render the order an unduly punitive one, given the circumstances, and the fact that the Member has accepted responsibility.

Regarding the *Jaswal* factors, the Member is in good standing with no prior discipline. He came forward and admitted his conduct. The Member switched his practice setting to one where he is better suited, and Southgate Centre is a less intensive setting. These are all mitigating factors. The Member's only reservation is the possibility of actualizing one of the conditions, specifically paragraph 4(g).

Additional submissions by Conduct Counsel:

Conduct counsel submitted that, although it appears that it would be difficult to fulfill the conditions placed on the Member by paragraph 4(g), the Member has not explored the alternatives. The RN Manager may be able to provide additional information relating to the level of observation that can be provided. CARNA's role is focused on protection of the public. While it is necessary to be alive to the employment dynamics, the employment aspect is not CARNA's priority or mandate. If the Hearing Tribunal considers alternatives or a modification of paragraph 4(g), there should still be some level of oversight.

Post-Adjournment submissions:

The Hearing Tribunal adjourned to consider the submissions and evidence, and then reconvened to ask for further submissions regarding paragraph 4(g). Specifically, the Hearing Tribunal requested further submissions regarding whether the goals of public protection and patient safety could be accomplished with modified supervision during the performance evaluation. After a brief adjournment, conduct counsel advised the Hearing Tribunal that they were unable to agree on a change to paragraph 4(g), and that it should remain unchanged. The Member's representative

submitted that the Member is not able to speak for his employer, and he would like an opportunity to go back to management and discuss supervision issues. However, without speaking to them, he is unable to provide these assurances. Therefore, the Member is unable to agree to paragraph 4(g). The Member will seek confirmation and ask the RN manager how the evaluation can be performed and what can be put into place in order to satisfy the regulator that the public is protected.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON SANCTION AND COMPLIANCE

The Hearing Tribunal has carefully considered the joint recommendations on sanction and compliance and the submissions of the parties. The Hearing Tribunal has considered the factors noted in *Jaswal*.

The Hearing Tribunal 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 Hearing Tribunal also considered the penalty in light of the principle that joint submissions should not be interfered with lightly. In the situation before the Hearing Tribunal there are joint recommendations except for paragraph 4(g), which provides for supervision by a registered nurse. Specifically, as part of the terms of the performance evaluation, paragraph 4(g) requires a RN manager to confirm that the Member is never the only RN on duty on the unit (a unit means approximately no more than 60 patients in close physical proximity) and that there is always at least one other RN working with him, on the same shift, on the same unit. This ensures sufficient oversight throughout the performance evaluation period.

The Hearing Tribunal has assessed the evidence presented and concluded that the type of supervision outlined in paragraph 4(g) is required in order to protect the public. The Member left a practice setting where he was experiencing difficulties, which shows self-awareness. However, good assessment skills are required in his current practice setting at the Southgate Centre. The order, with the inclusion of paragraph 4(g), satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection. The Hearing Tribunal has determined that the order appropriately reflects the level of seriousness of the unprofessional conduct in relation to which it made its findings, addresses the issues that brought this Member before this Hearing Tribunal, and appropriately considers the factors in *Jaswal*.

The reprimand provides specific deterrence to the Member by providing a public and professional perspective regarding the serious implications of his actions and inactions. Completion of the courses will provide the Member with remediation and serves to protect the public. The order also conveys the seriousness of not acknowledging when you need assistance and the importance of ensuring the safe and appropriate care of a patient. The order also sends a message to all members by validating the importance of using learned knowledge and expertise with critical thinking in the provision of timely care, and that it is of utmost importance in maintaining professional responsibilities.

The Member should take the comments in the written decision as well as the concerns expressed by the Hearing Tribunal with respect to his conduct as his reprimand. In addition, the Member should consider his experiences in dealing with this complaint before this Hearing Tribunal and CARNA, and his experiences with his employer and co-workers, as well as the joint submissions on sanction as a reminder of how important it is to practice in accordance with the Practice Standards and Code of Ethics.

ORDER OF THE HEARING TRIBUNAL

The Hearing Tribunal orders that:

1. The Regulated Member, Hosin Kee (the “**Regulated Member**”), shall receive a reprimand.
2. By no later than June 1, 2020, the Regulated Member shall provide proof satisfactory to a Hearing Tribunal that he has successfully completed and passed the following courses of study and learning activity:
 - a. Clinical Nursing Skills Refresher (NURS 0334 – MacEwan University);
 - b. Documentation in Nursing (NURS 0162 – MacEwan University).
3. By January 3, 2020, the Regulated Member shall provide a letter to a Hearing Tribunal from his RN Manager at his sole current employer confirming that:
 - a. The RN Manager has reviewed a copy of this Decision (including Allegations, Findings and Order).
 - b. The RN Manager is prepared to provide to CARNA one (1) Performance Evaluation covering at least 1,000 hours of practice, on the terms set out in paragraph 4 below. There must be sufficient detail in the letter to satisfy a Hearing Tribunal that the RN Manager at that site will be able to provide the Performance Evaluation on the terms set out in paragraph 4.
 - c. The RN Manager agrees to notify CARNA immediately of any issues related to the Regulated Member’s practice.
4. The terms of the Performance Evaluation are as follows:
 - a. The fact that each of these terms of the Performance Evaluation has been complied with will be mentioned in the Performance Evaluation.
 - b. The RN Manager shall confirm that he or she has seen a copy of this Decision (including Allegations, Findings and Order).
 - c. The Performance Evaluation is due immediately following the completion of 1,000 hours of practice at the Regulated Member’s sole current employer (the “Performance Evaluation Period”).

- d. The Performance Evaluation Period will commence *after* the Regulated Member has complied with paragraph 2(a) above. For clarity, the Performance Evaluation Period will start to run after the Regulated Member has provided satisfactory proof that he has completed the *Clinical Nursing Skills Refresher (NURS 0334 – MacEwan University)* as contemplated in paragraph 2(a) above. Compliance with paragraph 2(b) shall have no impact on the commencement of the Performance Evaluation Period.
- e. The RN Manager will personally observe and obtain feedback from Registered Nurse(s) who are on the same unit for the shifts that the Regulated Member is working who have ample opportunities to observe all aspects of the Regulated Member's nursing practice. The RN Manager will also obtain feedback from other members of the health care team, patients and their families and will do chart audits. (*Note: It is not the intention of the Hearing Tribunal that the RN Manager will tell anyone that he or she is collecting the information regarding the Regulated Member for CARNA*)
- f. The RN Manager shall confirm that he or she had sufficient opportunities to monitor and observe the Regulated Member during the Performance Evaluation Period in order to provide informed input into the Performance Evaluation.
- g. The RN Manager will confirm that the Regulated Member was never the only RN on duty on the unit (a unit means approximately no more than 60 patients in close physical proximity) and that there was always at least one (1) other RN working with him, on the same shift, on the same unit.
- h. The RN Manager agrees to notify CARNA immediately of any issues related to the Regulated Member's practice.
- i. The Performance Evaluation must be satisfactory to a Hearing Tribunal, indicating that the Regulated Member is performing to the standard expected of a Registered Nurse. The Performance Evaluation must include comments on all of the following:
 - i. Charting (all aspects, plus narcotic records, incident reports);
 - ii. Processing of physician's orders;
 - iii. Assessment skills: both initial assessment and ongoing assessment of patient's condition; use of all equipment for assessment and ongoing monitoring of all aspects of a patient's clinical status;
 - iv. Reporting the results of assessments to the appropriate persons, including other staff, charge nurse and physician; effective communication of all appropriate information to other staff/physicians regarding patient's condition;
 - v. Implementation of appropriate nursing interventions based on the assessment;
 - vi. Administration of medications and medication charting;
 - vii. Medication reconciliation (if done in that setting);
 - viii. Setting priorities for patient care;

- ix. Taking responsibility to ask questions or find necessary information;
 - x. Specific skills that are necessary on the unit;
 - xi. Professional responsibility;
 - xii. Communication style with other members of the health care team – whether it is respectful, professional, polite, helpful and clear;
 - xiii. Communication style with patients/families of patients – whether the style demonstrates respect, kindness, gentleness, and compassion;
 - xiv. Effective communication of relevant information to the patient/family;
 - xv. Manner of interactions with patients when required to touch the patient – whether the manner demonstrates respect, kindness, gentleness, and compassion;
 - xvi. Following the policies of the unit regarding all aspects of nursing practice;
 - xvii. Any other issues that the supervisor thinks are relevant.
5. From the date of the hearing, the Regulated Member is prohibited from working in any setting except his sole current employer and has submitted the Performance Evaluation mentioned in paragraph 4 above which is satisfactory to a Hearing Tribunal, unless he obtains permission from a Hearing Tribunal to obtain other employment, in which case a Performance Evaluation (as described in paragraph 4 above) will be required from his current employer, up to the date his employment ended, (if it ended) and from that new employer as well.

COMPLIANCE

6. Compliance with this Order shall be satisfactory proof to a Hearing Tribunal that the Regulated Member is competent in the areas of practice outlined in the findings of this Decision, and/or is not incapacitated.
7. Compliance with the Order shall be determined by a Hearing Tribunal at a scheduled meeting of a Hearing Tribunal. Failure to comply with any part of the Order may result in automatic suspension of the Regulated Member's CARNA practice permit, or in lieu of suspension, a Hearing Tribunal may make any further orders that it considers necessary under the circumstances without the requirement of convening a further hearing.
8. Any suspension for non-compliance with an Order shall remain in place until the Regulated Member has complied with the Order, or a Hearing Tribunal stays the suspension on further conditions, as the Hearing Tribunal deems appropriate under the circumstances, so that the Regulated Member may proceed to comply with the Order.
9. The responsibility lies with the Regulated Member to comply with this Order. It is the responsibility of the Regulated Member to provide explanation for any non-compliance or anticipated non-compliance without being asked by CARNA, not the responsibility of CARNA to request an explanation.

10. When a deadline pursuant to the Order has passed, or information regarding compliance is provided to CARNA by the Regulated Member, the Regulated Member's Order will be discussed at the next meeting of the Hearing Tribunal. The Regulated Member may phone the CARNA Conduct Department at (780) 732-4433 or (780) 453-0521 to find out the date of that meeting.
11. The Regulated Member may send in written submissions to CARNA (attention: a Hearing Tribunal) regarding non-compliance or anticipated non-compliance or attend to address a Hearing Tribunal in person to explain the non-compliance or anticipated non-compliance.
12. After considering the Regulated Member's explanation with respect to non-compliance or anticipated non-compliance, a Hearing Tribunal may amend the Order as it considers appropriate. The Regulated Member may be represented by counsel in all aspects of the compliance process. In addition, the principles of natural justice shall govern the proceedings of the Hearing Tribunal.

CONDITIONS

13. The Registrar of CARNA will be requested to put the following conditions against the Regulated Member's practice permit (current and/or future) and shall remain until the condition is satisfied:
 - i. *Coursework required (call CARNA);*
 - ii. *Letter from employer (call CARNA);*
 - iii. *Performance Evaluation(s) required (Call CARNA);*
 - iv. *Restricted re employment setting (Call CARNA).*
14. Effective November 27, 2019, or the date of this Order, if different from the date of the hearing, notifications of the above conditions shall be sent out to the Regulated Member's current employers (if any), the regulatory college for Registered Nurses in all Canadian provinces and territories, and other professional colleges with which the Regulated Member is also registered (if any).
15. Once the Regulated Member 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 of the other Canadian jurisdictions.
16. This Order takes effect November 27, 2019, 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 *Health Professions Act*.

Respectfully submitted,



Susan Derk, Chair
On Behalf of the Hearing Tribunal

Date of Order: November 27, 2019