



Andrea Benzelock  
CRNM #143237

## Notice of Censure

### Allegation

The member was suspended for three (3) days related to a breach of the *Personal Health Information Act (PHIA)*. The member failed to protect personal health information and failed to distinguish when use of personal technology breaches the *Standards of Practice for Registered Nurses* and *Code of Ethics for Registered Nurses*.

### Findings

The investigation revealed the member received an electronic image of a client on her personal, unsecured mobile device from another unsecured mobile device. The member then showed the image to other registered nurses who were not providing care to this patient.

The member stated that she felt it was appropriate to share the image with other RNs because she believed they have training on PHIA. The Investigation Committee's position is that it was not appropriate to share the image with other RNs even if they had taken PHIA training.

The member participated in conversations with other RNs regarding a client no longer in her care. The member shared the image of the patient with RNs not caring for the client. The member failed to advocate for the privacy of the client and take steps to report the breach of the care team.

Confidential information should be shared only with the client's informed consent when legally required or where failure to disclose information could result in significant harm. The member did not have informed consent, was not legally required to share confidential patient information and there was no therapeutic benefit to the client.

Privacy relates to the client's expectation and the right to dignity and respect. The client needs to be confident that their most personal information and basic dignity will be protected by the RN.

If clients fear that their personal health information will be shared with those who do not have a legitimate "need-to-know", they may be hesitant to disclose personal information. Any breach of this trust, even inadvertent, damages the particular nurse-client relationship and the general trustworthiness of the registered nursing profession.

The Investigation Committee is concerned that the member failed to demonstrate insight into her professional obligation and responsibility to ensure client information remains confidential and private.

While there is no information before the Investigation Committee that there was specific client harm, there is potential for harm to the registered nursing profession as a whole and the confidence of the public in the failure to maintain confidentiality and privacy of all clients.

The Investigation Committee is reasonably satisfied that the facts support that the member did not meet the following *Standards of Practice for Registered Nurses*, specifically the following indicators:

## **Standards of Practice for Registered Nurses 2013**

### **Standard IV: Ethical Practice**

Registered nurses recognize, promote and uphold the ethical standards of the nursing profession.

Indicators:

- 23) You practice in accordance with the values outlined in the *Code of Ethics*.
- 24) You demonstrate professional responsibility in protecting personal health information.
- 25) You distinguish when digital technology/applications enhance nursing practice and when they breach the *Standards of Practice* or the *Code of Ethics* and use them appropriately (e.g. social media).

## **Code of Ethics for Registered Nurses (CNA)**

### **E. Maintaining Privacy and Confidentiality**

Ethical responsibilities:

- 1) Nurses respect the right of people to have control over the collection, use, access and disclosure of their personal information.
- 2) When nurses are conversing with persons receiving care, they take reasonable measures to prevent confidential information in conversation from being heard.
- 3) Nurses collect, use and disclose health information on a need-to-know basis with the highest degree of anonymity possible in the circumstances and in accordance with privacy laws.
- 4) When nurses are required to disclose information for a particular purpose, they disclose only the amount of information necessary for that purpose and inform only those necessary. They attempt to do so in ways that minimize any potential harm to the individual, family or community.
- 5) When nurses engage in any form of communication, including verbal or electronic, involving a discussion of clinical cases, they ensure that their discussion of persons receiving care is respectful and does not identify those persons unless appropriate.
- 7) Nurses respect policies that protect and preserve people's privacy, including security safeguards in information technology.
- 8) Nurses do not abuse their access to information by accessing health-care records, including their own, a family member's or any other person's, for purposes inconsistent with their professional obligations.
- 9) Nurses do not use photo or other technology to intrude into the privacy of a person receiving care.
- 10) Nurses intervene if others inappropriately access or disclose personal or health information of persons receiving care.

## **Decision**

Registered nursing is a self-regulated profession in Manitoba. RNs must recognize that self-regulation is a privilege and that each RN has a continuing responsibility to meet the *Standards of Practice for Registered Nurses* and the *Code of Ethics for Registered Nurses*.

On these facts, the Investigation Committee records its disapproval of the lack of professionalism in failing to adhere to the ethical values and standards of practice. Although this conduct is sufficiently serious to refer to the Discipline Committee, the Investigation Committee is mindful of the fact that the member does not have a disciplinary record.

A censure will adequately protect the public's concern regarding the privacy of personal health information and the role of RNs as trustees of that information. On these facts, the Investigation Committee believes that this censure should be published to act as a deterrent for other RNs. The member appeared before the Investigation Committee on Nov. 20, 2014 and was read the censure.

The Investigation Committee orders the member to pay costs of \$1,000.