

IN THE MATTER OF:

The Registered Nurses Act, R.S.M. 2001, c. R40

AND IN THE MATTER OF:

A hearing into the conduct of Garrett Bray, CRNM #144564

DECISION



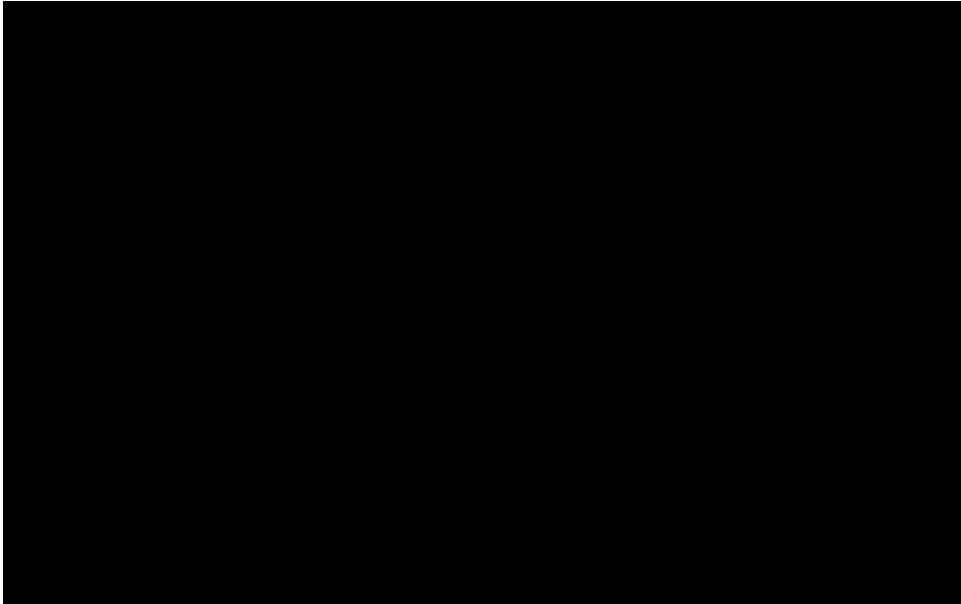
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IN THE MATTER OF: **The Registered Nurses Act, R.S.M. 2001, c. R40 (the "Act")**

AND IN THE MATTER OF: **A Hearing into the Conduct of Garrett Bray, CRNM #144564**

DECISION



Introduction

On December 01, 2016 and October 15, 2018, a Panel of the Discipline Committee (the "Panel") of the College of Registered Nurses of Manitoba (the "College") held a hearing into the charges against Garrett Bray (the "Member"), a member of the College. The charges are set out in the Notice of Hearing which was marked as Exhibit 1.

At the commencement of the hearing, it was agreed that the Notice of Hearing had been properly served and the time limits set forth in section 34 of the Act had been met. When this hearing commenced on December 01, 2016, the Chair of the Panel was [REDACTED]. [REDACTED] resigned from the Discipline Committee after December 01, 2016 and [REDACTED] was appointed Chair.

No objections were raised as to the composition of the Panel and the Panel proceeded to hear the matter.

The Member appeared at the hearing without legal counsel and pled guilty to conduct unbecoming a member.

The Panel then heard submissions from Counsel for the Investigation Committee, as well as from the Member, respecting the background facts giving rise to the matters raised in the Notice of Hearing and the appropriate disposition of the matter.

After hearing the submissions of Counsel to the Investigation Committee and of the Member, the Panel adjourned to consider the matter. The following facts are not in dispute:

1. The Member has been a Registered Nurse since 2009.
2. Between July 02, 2015 and October 05, 2015 the Member accessed, possessed, and made available child pornography through a website that enables peer-to-peer file sharing.
3. On October 15, 2015 the Member was criminally charged with three (3) counts related to accessing, possessing and making child pornography available. There were also three (3) counts related to unlawful storage of a firearm and possession of prohibited weapons. These six (6) counts will collectively be referred to as the "criminal charges".
4. On December 11, 2015 the Member self-reported the criminal charges to the College.
5. On December 16, 2015 the Member appeared before the Investigation Committee and a number of restrictions were placed on his registration.
6. On November 03, 2016 the Member was charged under the Act with six (6) counts of conduct unbecoming a member related to the criminal charges and one (1) count of professional misconduct related to a false statement made on his 2015 registration renewal application.
7. On June 15, 2017 the Member pled guilty to all six (6) criminal charges. During the sentencing phase of the criminal proceedings, the College learned that the Member had downloaded 17,915 images and 354 videos containing child pornography. The images and videos depicted children ranging in age from 2 years to 16 years of age. The images contained what Counsel to the Investigation Committee described as "high levels of depravity". The Member was sentenced to nine (9) months in jail followed by eighteen (18) months of probation.
8. When the College learned of the massive quantities of child pornography, the Investigation Committee reconvened and suspended the Member's registration.
9. The Member was candid and cooperative with the police, the courts and the College.
10. The Member sought and obtained counselling. He has been contrite and has accepted responsibility for his actions. Before the courts and before this Panel the Member has not attempted to minimize the gravity of his crimes.
11. At the hearing before this Panel on October 15, 2018 Counsel for the Investigation Committee stayed count seven (7) relating to the making of a false statement on the 2015 registration renewal application. The Member pled guilty to conduct unbecoming a member arising from the six (6) criminal charges.
12. When appearing before the Panel, the Member acknowledged that his crimes were heinous and it was appropriate for the College to cancel his registration.

The Panel is satisfied that the facts submitted constitute conduct unbecoming a member.

After considering the submissions of Counsel for the Investigation Committee and of the Member with respect to discipline, the Panel made the following Order:

1. The Member's registration be cancelled; and

2. The Member pay costs in the amount of \$5,000 within eighteen (18) months of the date of the Order.

The Panel considers the foregoing disposition to be appropriate for the following reasons:

1. The fundamental purpose of sentencing for professional discipline is to ensure that the public is protected. It is essential to maintain the public's confidence in the integrity of the nursing profession's ability to supervise the conduct of its members.
2. By accessing, possessing, and making child pornography available for sharing, the Member has participated willfully in the chain of demand that leads to abuse of vulnerable children. Exploitation of children is wholly contrary to the profession's ethical obligations and the public trust in the integrity of the nursing profession.
3. This is a most serious offence and calls for the most serious penalty. The Panel wishes to send a strong message to the profession and the public that this type of behaviour is reprehensible and will not be tolerated.
4. In his submissions to the Panel, the Member agreed that his registration should be cancelled.
5. With respect to costs, Counsel for the Investigation Committee requested a cost order of \$5000. The Member did not disagree but requested time to pay. The Member stated he is currently unable to pay any amount but hopes to be able to do so in the future. Counsel for the Investigation Committee did not object to granting time for the member to pay costs. The Panel believes the Member should be able to pay costs of \$5000 within a period of eighteen (18) months.

At the conclusion of the Hearing, the Member requested that his name and any identifying information not be disclosed in the publication of this Decision. The Member expressed concern for his safety and for the safety of his family given the nature of his crime. Counsel for the Investigation Committee noted that the usual practice is to publish the name of the Member. However, in exceptional circumstances, usually related to health issues, the name of the member is withheld. In the present case the Panel does not recommend that the Member's name be withheld.

DATED at Winnipeg, Manitoba, the 15th day of October 2018.

