



CRNM Member

## Discipline Committee Decision

On August 11, 2015 and October 6, 2015, 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 a member (the "Member"), a member of the College.

The Member appeared at the hearing with legal counsel and entered a guilty plea to professional misconduct.

The Panel then heard submissions from counsel for the College, as well as counsel for 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 submissions of counsel, the Panel adjourned to consider the matter. The following facts are not in dispute:

1. The Member graduated with a Bachelor of Nursing in 2007.
2. In 2007, the College received a complaint and became aware that the Member was struggling with addiction issues.
3. These addiction issues culminated in 2012 when the Member entered a guilty plea to two counts of professional misconduct related to breach of an undertaking with the College.
4. On October 19, 2012, a different panel of the Discipline Committee issued an Order which contained a number of provisions including:
  - a) The Member will immediately:
    - i. Provide a copy of this Order to all direct supervisors and current registered nursing employer(s).
    - ii. Provide all direct supervisors and current registered nursing employer(s) with the name of the Manager of Professional Conduct and to advise that employer that any questions, concerns, correspondence, reports, etc. should be directed to the Manager of Professional Conduct.
    - iii. Provide written confirmation to the College regarding the name(s) and address(es) of all her registered nursing employers.
    - iv. Provide written confirmation to the College that she has advised all current registered nursing employer(s) to confirm to the College that she has complied with (i) and (ii) above of this Order.

- b) In the event the Member accepts any new registered nursing employment during the term of this Order, the Member will immediately comply with the process set out in “a” (i)(ii)(iii) and (iv) of this Order.
5. On May 6, 2015, the Member commenced new employment as a registered nurse with a health-care facility. Contrary to her obligation under clause 3 of the Order dated October 19, 2012, the Member did not immediately provide her supervisor or the health-care facility with a copy of the Order and she did not provide confirmation to the College that she had complied with the Order.
6. The Panel heard evidence of the Member's attempt to provide the employer with a copy of the Order by email on May 19, 2015. That email came back as undeliverable. The Panel heard further evidence that the Member placed a copy of the Order on her supervisor's desk on June 15, 2015. The Member was dismissed from the health-care facility on June 16, 2015 for breach of trust for failing to provide the October 19, 2012 discipline order on a timely basis.
7. On June 16, 17, and 18, 2015, this matter was brought to the attention of the College through a series of discussions with the management of the health-care facility and the Member. This resulted in a referral to the Investigation Committee.
8. On June 23, 2015, the Investigation Committee referred this matter to the Discipline Committee for a hearing.
9. The matter came before a panel of the Discipline Committee (the "Panel") on August 11, 2015 and the hearing was adjourned to October 6, 2015.
10. On October 6, 2015, the Member appeared before the Panel and entered a guilty plea to the charge of professional misconduct in that she breached the terms of the Order dated October 19, 2012 by failing to comply with the provisions of the Order as set out in paragraph 4 noted above.

The Panel is satisfied that the facts submitted constitute professional misconduct, as alleged in the Notice of Hearing and, accordingly, the member is guilty of professional misconduct, as charged.

After considering the submissions of counsel with respect to discipline, the Panel makes the following Order:

1. That the Member be reprimanded;
2. That the Member pay costs in the amount of \$5,000 within 18 months of the date of this Order;
3. That the Member will immediately:
  - a) Provide a copy of this Order to her current direct registered nursing supervisor.
  - b) Provide her current direct registered nursing supervisor with the name of the Manager of Professional Conduct and advise that supervisor that any questions, concerns, correspondence, reports, etc. should be directed to the Manager of Professional Conduct.
  - c) Provide written confirmation to the College that she has advised her current direct registered nursing supervisor to confirm to the College that she has complied with (a) and (b) above of this Order.
4. In the event the Member accepts any new registered nursing employment between the date of this Order and October 19, 2017, the Member will immediately comply with the process set out in 3 (a) (b) and (c) of this Order.
5. This Order is to be published without identifiers.

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

1. With respect to the reprimand:

The primary responsibility of the College is to protect the public. The Order made by the previous panel of the Discipline Committee on October 19, 2012 contained provisions requiring that the Member notify her registered nursing employers of the existence of the Order and to confirm to the College that this had been done. In order to protect the public, it is essential that members who are subject to an Order of this nature comply strictly with the provisions of the Order. This enables the College to monitor the professional activities of the Member and to be satisfied that the registered nursing employer is fully aware of any restrictions on the Member's practice. Failure to comply with these provisions puts the public at potential risk. The Member's failure to advise her employer immediately of the existence of the Order was a clear breach of the Order and would generally result in a more severe penalty. However, the Panel considers a reprimand to be an appropriate penalty in light of the following considerations:

- a) The Member has commenced new employment with another health-care facility and suspension could affect her continued employment.
- b) The Panel heard evidence that the Member is otherwise making good progress in dealing with her addiction.
- c) The Member has already been penalized as her employment at the former employer was terminated.
- d) In these unusual circumstances, the Panel does not think it is in the public interest to suspend the Member.

2. With respect to costs:

This is not the first time the Member has been disciplined for failing to comply with an Undertaking or an Order of the College. A strong message must be sent to the Member and the profession that failure to comply with such obligations has serious consequences. It is not enough for the Member to attempt to comply; it is her professional obligation to ensure compliance and accept responsibility for her actions. Even a cost order of \$5,000 represents only a fraction of the costs incurred by the College in investigating and prosecuting this matter.

3. With respect to the notice to the employer:

In this case the Member has requested and the Panel has agreed that the Order should be published without identifiers. However, the Panel is also of the view that the Member's current employer and any future employer within the next two years has the right to be made aware of these discipline proceedings.

4. With respect to publication:

This matter arises out of the Member's health issues related to addiction. The Panel agrees with the submissions of counsel for the Investigation Committee and counsel for the Member that publication of this decision should be made without identifiers.