

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 Sasheen Guest also known as Tia Smith,
CRNM #146989**

DECISION



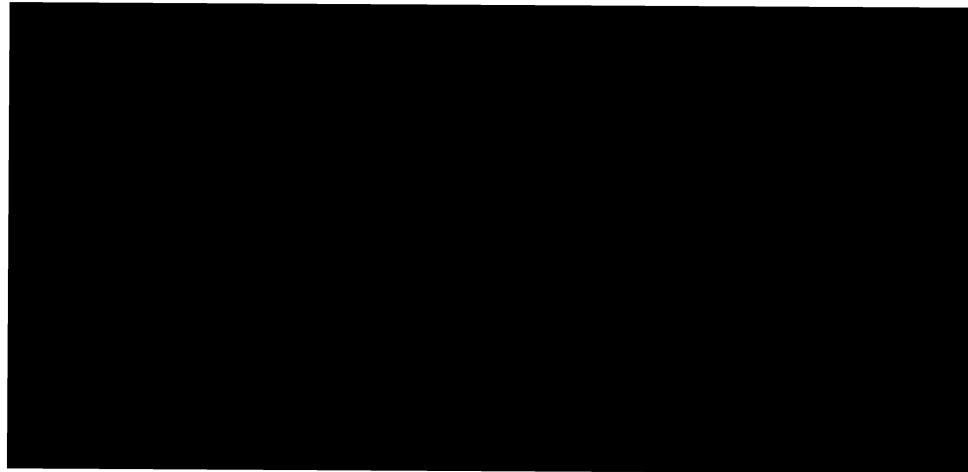
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Introduction

On January 29, 2016, 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 Sasheen Guest also known as Tia Smith (the "Member"), a member of the College. The charges against the Member are set out in the Notice of Hearing of January 6, 2016 (the "Notice of Hearing"). At the commencement of the hearing, it was agreed that the Panel was properly constituted and had jurisdiction to deal with the referral that was made by the Investigation Committee on December 16, 2015. In the absence of the Member and after hearing from Counsel to the Investigation Committee, in order to allow for service upon the Member, the matter was adjourned to a date to be agreed upon, or to be set by the Chair of the Panel (the "Chair").

As directed by the Chair, the Panel reconvened on October 31, 2016. In the absence of the Member and after hearing Counsel to the Investigation Committee, the Panel ordered that the Notice of Hearing be served substitutionally upon the Member, and the hearing was adjourned.

The Panel reconvened on January 4, 2017. The Member did not attend although the substitutional service had been effected on November 29, 2016 in accordance with the prior Order of the Panel. The Panel was satisfied that the Notice of Hearing had been served upon the Member and the time limits set forth in Section 34 of *The Registered Nurses Act* ("the Act") had been met.

In the absence of the Member, the charges as set forth in the Notice of Hearing were read into the Record and a plea of Not Guilty entered on the Member's behalf.

Notice of Hearing

This case involves a complaint by the College Investigation Committee relating to the conduct of the Member.

The matters at issue as set out in the Notice of Hearing are that the Member, Sasheen Guest, also known as Tia Smith, is guilty of professional misconduct or in the alternative is suffering from an ailment that might, if she continues to practice, constitute a danger to the public in that:

1. The Member fraudulently stole the identity of [REDACTED] and accepted employment as a registered nurse despite knowing that the Member did not have a valid and existing registration with the College.
2. Alternatively, for the sole purpose of obtaining narcotics for personal use (and/or abuse) as a result of her substance use disorder, the Member fraudulently stole the identity of [REDACTED] and accepted employment as a registered nurse despite knowing that the Member did not have a valid and existing registration with the College.
3. In breach of Section 3(1) of *The Registered Nurses Act*, the Member represented or held herself out as a registered nurse when she was not a registered nurse.
4. Alternatively, for the sole purpose of obtaining narcotics for personal use (and/or abuse) as a result of her substance use disorder, the Member represented or held herself out as a registered nurse when she was not a registered nurse, contrary to Section 3(1) of *The Registered Nurses Act*.

Particulars of the foregoing allegations are as follows:

- a. On November 1, 2013, the College received a report from the Member's then employer which indicated, among other things:
 - that when she reported to work on October 26, 2013, her speech was slurred and she asked frequent repetitious questions to the off-shift nurse;
 - she attempted to access narcotics without a legitimate reason;
 - she had difficulty using a telephone when attempting to make a call;
 - she attempted to avoid providing a requested urine sample; and
 - her morphine oral solution count was found to be incorrect.
- b. On November 7, 2013, while registered as a member of the College under the name of Sasheen Guest, the Member voluntarily surrendered her registration. The voluntary surrender was to remain in effect until the Investigation Committee was satisfied that the conduct that was the subject of the report from her then employer had been resolved. In addition, the Investigation Committee directed that, before reinstatement, she must complete a fitness to practice assessment by a psychologist or psychiatrist approved by the College which assessment would provide an opinion regarding whether she was safe to return to practice.

- c. The voluntary surrender of November 7, 2013, was the Member's second voluntary surrender. She had also voluntarily surrendered her registration on January 24, 2013, as a result of health concerns.
- d. [REDACTED] was assigned to conduct the Member's fitness to practice assessment and that assessment began in March of 2014.
- e. On or about June 25, 2014, under the name of Sasheen Guest, the Member applied for a registered nurse position with [REDACTED]. She did so, despite the fact that she did not have a valid and existing registration with the College and that the fitness to practice assessment had not been completed by [REDACTED].
- f. On or about June 26, 2014, the Member was hired by [REDACTED] for a registered nurse position. [REDACTED] provided her with orientation and placed her employment on hold until she had an active practicing registration.
- g. In or about July, 2014 the Member applied, under the name of Sasheen Guest, for a registered nurse position with [REDACTED]. She did so despite the fact that she did not have a valid and existing registration with the College and that the fitness to practice assessment had not been completed.
- h. On July 17, 2014 [REDACTED] contacted the College and advised that in her opinion the Member was opiate dependent and in entrenched denial. [REDACTED] also advised that the Member required admission to a rehabilitation facility and should enroll in the methadone treatment program.
- i. The Member called professional conduct staff at the College and wanted to be advised of her options regarding reinstatement and indicated that she did not agree with [REDACTED] assessment regarding her ability to return to work. During this conversation the Member's speech was slurred and garbled with some slight but apparent delay in word finding.
- j. On or about July 20, 2014, the Member emailed [REDACTED] and advised that she had an active practicing registration as well as a recent name change and was available to work. The Member provided [REDACTED] with a new name, being Tia Smith and the registration number for Tia Smith. She knew Tia Smith to be a registered nurse and was aware of her registration number. She purposely changed her name to Tia Smith in order to hold herself out as a registered nurse when she did not have a valid and existing registration. She provided [REDACTED] with a certificate of name change confirming her change of name to Tia Smith.
- k. Relying upon the false information that the Member had a valid and existing registration under the name of Tia Smith, [REDACTED] hired her to work a shift on July 20, 2014, at the [REDACTED]. Despite knowing that she did not have a valid and existing registration, the Member worked as a Registered Nurse at the [REDACTED] on July 20, 2014.

- l. On July 21, 2014, a representative of [REDACTED] contacted the College and advised that when the Member worked the shift of July 20, 2014 practice deficiencies were noted. The [REDACTED] representative also advised that the Member seemed out of place, her speech was slurred and she could not talk clearly.
- m. On July 22, 2014, the Investigation Committee convened in order to deal with the information provided by [REDACTED]. Despite receiving notice of this meeting and being requested to attend, the Member did not meet with the Investigation Committee. On July 22, 2014, the Investigation Committee, pursuant to Section 28(1) of *The Registered Nurses Act* directed that the Executive Director of the College suspend her registration.
- n. The Member was provided notice of the suspension of July 22, 2014 by way of a letter from the College of the same date.
- o. On July 22, 2014, the Member accepted employment, under the name of Tia Smith, with [REDACTED]
- p. On July 23, 2014, the Member worked a shift as a registered nurse at the [REDACTED] Manitoba, under the name of Tia Smith. She did so despite knowing that she did not have a valid and existing registration with the College, as her registration with the College had been suspended by the Investigation Committee on July 22, 2014.
- q. On July 24, 2014, under the name of Tia Smith, the Member worked as a registered nurse at the [REDACTED] [REDACTED] Manitoba. She did so despite knowing that she did not have a valid and existing registration with the College, as her registration with the College had been suspended by the Investigation Committee on July 22, 2014.
- r. On July 25, 2014, the Member worked a further shift at the [REDACTED] Manitoba, under the name of Tia Smith. She did so despite knowing that she did not have a valid and existing registration with the College, as her registration with the College had been suspended by the Investigation Committee on July 22, 2014.
- s. During her shifts at both the [REDACTED] and the [REDACTED] the Member committed multiple medication errors and did not chart medications given to patients. In addition, the [REDACTED] staff noted her to be sluggish and that a significant amount of narcotics were missing after her shift.
- t. The Member's conduct was reported to the Winnipeg Police Service by the College. On September 19, 2014, the Member was charged under Section 403(1)(a) of the Criminal Code that she did, on three occasions, fraudulently personate Tia Smith with intent to gain advantage for herself.
- u. On or about May 20, 2015, the Member pled guilty to all three counts under Section 403(1) of the Criminal Code and received a four month conditional sentence to be followed by 18 months of supervised probation.

As a result, the Notice of Hearing alleged that the Member had breached Section 3(1) of *The Registered Nurses Act*, Standard II, including indicators 11, 12 and 13 and Standard IV, including indicator 23 of the Standards of Practice for Registered Nurses and Primary Value G, Responsibility 1, 2 and 4 of the Code of Ethics for Registered Nurses.

A further allegation made against the Member is that:

5. The Member is guilty of conduct unbecoming a Member of the College, in that, on or about November 18, 2014, at The City of Winnipeg, in the Province of Manitoba, she did unlawfully, having been named in a Promise to Appear, confirmed by a Justice under Section 508 of *The Criminal Code*, fail, without lawful excuse, to appear in Provincial Court, 408 York Avenue, contrary to Section 145 (5) of *The Criminal Code*.

Evidence

The Investigation Committee called [REDACTED] with the College. [REDACTED]

[REDACTED] was the principal investigator and author of the Investigation Report, submitted December 9, 2015.

[REDACTED] described her investigation commencing with an outline of the chronology of events from January 4, 2013 through July 26, 2013 during which period the Member voluntarily surrendered her registration and was subsequently reinstated with conditions imposed on her registration.

[REDACTED] also dealt with the events of November 1, 2013 and the Member's second voluntary surrender of her registration on November 7, 2013.

[REDACTED] stated that commencing in June 2014, the Member was taking active steps to return to work although not registered to practice. The Member had applied for reinstatement but conditions including a fitness to practice assessment had yet to be completed. While this process was being dealt with and unbeknownst to the College, the Member worked as a registered nurse through [REDACTED] and [REDACTED]

[REDACTED] described telephone conversations with the Member where it was apparent that her speech was impaired. [REDACTED] also spoke to [REDACTED], an addictions specialist charged with conducting the medical assessment for fitness to practice, who advised that the Member was opiate dependent, requiring rehabilitation, but was entrenched in denial.

On July 20, 2014 the Member worked as a registered nurse, under the name of Tia Smith, [REDACTED]. [REDACTED] The Member's employment and concerns with respect to the nursing services provided were reported to the College by [REDACTED] on July 21, 2014.

[REDACTED] described the process whereby, on July 22, 2014, the Investigation Committee suspended the Member's registration. The College reported the matter to the Winnipeg Police Service.

On July 23, 24, 25, 2014 the Member was reported to have worked as a registered nurse, under the name Tia Smith, [REDACTED]. Concerns were reported to the employer as to the nursing care provided, her behaviour and irregularities in narcotic count.

██████████ testified that it was on July 28, 2014 that the College was advised by ██████████ that the Member had been engaged in this unauthorized practice.

██████████ described the concurrent criminal process which resulted in the Member's being convicted on three (3) counts of Personation with Intent to Gain Advantage and sentenced on May 20, 2015 to a four (4) month conditional sentence to be followed by 18 months of probation.

In summary ██████████ testified that the Member had worked under her own name and under the name of Tia Smith without registration, and/or while under suspension; concerns had been raised with the nursing care provided while working including concerns as to her condition; and, there were reports of missing and unaccounted for narcotics.

Submission

Counsel advised that the Investigation Committee was proceeding on charges 1. – 4. as set forth in the Notice of Hearing but was not pursuing charge 5. Charges 1. – 4. had been set out in the alternative; professional misconduct or ailment constituting danger to the public, as referenced in Section 42 (a) and (f) of the Act. It was submitted that although there was evidence in support of both, it would be most difficult to deal with the ailment alternative without hearing from the Member. In spite of the manner in which the Notice of Hearing was written and Counsel's subsequent conversation and correspondence with the Member seeking a response/explanation for her actions, the Member has chosen not to appear or respond in any way.

Counsel asserted that the evidence has clearly established that the Member, on at least four occasions, practiced as a registered nurse while her registration was either surrendered or suspended; that the Member impersonated another registered nurse in order to gain employment which allowed her to access narcotics; and on these occasions, the Member failed to meet the standards of a registered nurse and disregarded the needs of patients.

The Investigation Committee accepted the onus of establishing professional misconduct on the balance of probabilities. Counsel submitted that there was no option for the Panel but to find the Member guilty of professional misconduct as set forth in charges 1. and 3. The Member had concocted a plan to practice nursing while not registered to do so, contrary to the Act; fraudulently impersonated a nurse with an active registration; and developed a scheme to access narcotics meant for patients.

Counsel referred to the Standards of Practice for Registered Nurses and the Code of Ethics for Registered Nurses and pointed out those indicators/values that had been breached by the Member.

In terms of sanctions it was asserted that the public could be protected only through cancellation of the Member's registration. Without hearing from the Member there were no mitigating circumstances to be considered. This is the only penalty proportionate to the conduct.

Finally, Counsel submitted that an award of costs in the amount of \$10,000 would be appropriate.

Issues

1. Is the Member guilty of professional misconduct?
2. Is the Member suffering from an ailment that might constitute a danger to the public?

3. If either 1 or 2, what is the appropriate sanction?

Decision

1. Is the Member guilty of professional misconduct?

The Panel is satisfied that the Investigation Committee has established charges 1. and 3. as set forth in the Notice of Hearing. The Member fraudulently stole the identity of Tia Smith and accepted employment as a registered nurse despite knowing that she did not have a valid and existing registration with the College. In breach of Section 3 (1) of the Act, the Member represented and held herself out as a registered nurse when she was not a registered nurse.

2. Is the Member suffering from an ailment that might constitute a danger to the public?

Without hearing from the Member, the Panel is unable to, and therefore makes no determination in this regard.

3. If either 1 or 2, what is the appropriate sanction?

Having found the Member guilty of professional misconduct, and having regard to the severity of the offences, the Panel is satisfied that the only sanction that could adequately protect the public is cancellation of the Member's registration.

The Panel is of the view that an order of costs in the amount of \$10,000 is appropriate.

