

**IN THE MATTER OF: THE REGULATED HEALTH PROFESSIONS ACT
S.M. 2009 C. 15**

**AND IN THE MATTER OF: AN INQUIRY COMMITTEE PANEL HEARING INTO THE
CONDUCT OF CAROLE LAVACK, CRNM #134021**

AMENDED DECISION AND REASONS



890 Pembina Highway
Winnipeg, MB R3M 2M8
Telephone: 204-774-3477
Fax: 204-775-6052

**IN THE MATTER OF: THE REGULATED HEALTH PROFESSIONS ACT
S.M. 2009 c. 15**

**AND IN THE MATTER OF: AN INQUIRY COMMITTEE PANEL HEARING INTO THE
CONDUCT OF CAROLE LAVACK, CRNM #134021**

AMENDED DECISION AND REASONS

Inquiry Panel Members:

Lydia Harris, Chair

Charity Reeves

Carol Renner

Donald Solar

Brenda Sullivan

**Counsel to and representative of
the Complaints Investigation**

Committee:

William G. Haight

Phillips Aiello Barristers & Solicitors

Denise Nakonechny

CRNM Manager of Professional Conduct

Member:

Carole Lavack

Counsel to the Panel:

Jeff Hirsch K.C.

Thompson Dorfman Sweatman LLP

Introduction

On Wednesday, June 28, 2023, an Inquiry Committee Panel (the “Panel”) of the College of Registered Nurses of Manitoba (the “College”) held a hearing into a charge against a member of the College, Carole Lavack (the “Member”).

At the commencement of the hearing, it was established that the Notice of Hearing dated May 5, 2023 (the “Notice”), had been properly served and the jurisdictional requirements set forth in subsections 102(3), 116(2), 116(4), and 120(1) of *The Regulated Health Professions Act* (the “RHPA”) had been met.

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 the single count contained in the Notice, namely that, on or about May 26, 2022, at the [REDACTED] Manitoba, they did steal 30 Lorazepam 0.5mg tablets, the property of Facility A, contrary to section 334 of the *Criminal Code*.

The Panel then heard submissions from counsel for the College’s Complaints Investigation Committee (the “CIC”), describing the background facts giving rise to the matter raised in the Notice and the appropriate disposition of the matter. The Member agreed that the facts constituted professional misconduct and agreed to the suggested disposition proposed by the counsel to the CIC.

After hearing those submissions, the Panel adjourned to consider the matter. The following facts are not in dispute:

1. The Member has been a registered nurse for over 30 years, being initially registered with the College on October 18, 1991.
2. From September 5, 2017 to June 23, 2022, the Member was employed at Facility A, most recently as the Director of Nursing.
3. Facility A is a multi-level facility offering independent and assisted living as well as a personal care home.
4. On or about May 26, 2022, the Member diverted 30 Lorazepam 0.5mg tablets belonging to their employer. The tablets were diverted by the Member for their own use but they did not consume the tablets.

0. On May 28, 2022, two on-duty nurses identified a missing blister pack, and the diversion was reported to the employer.
1. When initially questioned about the missing medication, the Member attempted to cover their tracks by indicating to a junior nurse that Facility B requested the medication. This was a fabrication.
2. On May 29, 2022 the Member confessed to the diversion of the drugs but explained they did not consume them.
3. The Member acknowledged that they had been under immense pressure at home and at work which was compounded by demands of the COVID-19 pandemic, and Facility A's staff shortages.
4. As a result of the diversion, the Member was terminated for cause by the employer.
5. The diversion was reported to the [REDACTED] police and the Member was subsequently criminally charged.
6. On August 3, 2023, the CIC imposed the following interim conditions on the Member's certificate of practice:
 - The Member will provide the results of a hair drug analysis and a report from a primary care provider that will assess their current fitness to practice.
 - The Member will provide the CIC with regular updates on the pending criminal proceedings.
 - The Member will not have access to opiates and controlled substances.
 - The Member will not work in a charge nurse or supervisory role.
 - The Member will advise the committee of all registered nursing employer(s) and any change of employment.
7. The results of the hair drug analysis report trace back 90 days and came back negative, which corroborated the Member's assertion that they did not consume the diverted Lorazepam.
8. An assessment from the Member's medical professional stated they are not aware of any substance use or misuse.
9. On December 1, 2022, the Member plead guilty to the charge of theft under five thousand dollars. The court ordered six months of supervised probation, 20 hours of community service, and a fine of \$102.00.
10. The Member has satisfied all conditions imposed by the court and has been cooperative through College processes including by entering a plea of guilty at the first available appearance.

Background

The Member has no previous discipline history.

Decision

The Panel finds that the facts submitted establish that the Member is guilty of professional misconduct as alleged in the Notice. The Member acknowledged and admitted that their conduct amounted to professional misconduct.

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

1. Both counsel to the CIC and the Member acknowledge that the Member is a long-standing nurse with no previous discipline history.
2. The Panel is satisfied that the Member's admissions to the CIC establish that they diverted Lorazepam from their employer.
3. The Panel, along with the Member, recognize that these actions constitute professional misconduct.
4. The Member accepted responsibility and apologized for their conduct.
5. Before appearing in front of this Panel, the Member cooperated in the investigative process before the College.
6. The Member appears to have learned their lesson, has apologized, and recognizes that there are repercussions to their actions. The penalty the Panel imposes acknowledges this.
7. The Member has been terminated by their employer and is no longer working as a registered nurse. This has resulted in a significant loss of income.
8. The member entered a plea of guilty to a criminal charge of theft under \$5,000.00.
9. The College must protect and serve the public interest through quality registered nursing regulation.
10. The public must have confidence in the profession. The College can maintain this confidence by supervising the conduct of its members appropriately.
11. Further, the Panel recognizes that committing professional misconduct is a serious breach of integrity and needs to be addressed appropriately to deter any such further conduct.
12. The College needs to demonstrate to the public that it is governing the conduct of registered nurses and that appropriate action is taken in cases of professional misconduct.
13. The penalty is generally consistent with similar cases concerning a first offence with a guilty plea.

The Panel therefore makes the following Order, as requested by counsel to the CIC, and agreed to by the Member:

1. The Member is hereby reprimanded.

2. The Member is to pay costs to the College in the amount of \$3,500 within 30 days of the date of the attached Order.

DATED at Winnipeg, Manitoba, the 17th day of July, 2023.

