

**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
Brandi Lynn Dick, CRNM #147980**

DECISION AND REASONS



College of
Registered Nurses
of Manitoba

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Introduction

1. On Monday, October 30, 2023, an Inquiry Committee Panel (the “Panel”) of the College of Registered Nurses of Manitoba (the “College”) held a hearing (the “Hearing”) into charges against a member of the College, Brandi Lynn Dick (the “Registrant”).
2. The Hearing was the continuation of the hearing which commenced on April 13, 2021. At the April 2021 hearing, it was established that the Notice of Hearing dated February 23, 2021 (the “Notice”), had been properly served and the jurisdictional requirements in subsections 102(3), 116(2), 116(4), and 120(1) of the *The Regulated Health Professions Act S.M. 2009 c. 15* (the “Act”) had been met. The Registrant did not attend the April 2021 hearing. The hearing was adjourned, in part, to allow for the criminal charges against the Registrant to be completed.
3. Although properly served with notice on September 19, 2023 and October 13, 2023, the Registrant did not appear at the Hearing.
4. Section 118 of the Act allows for a hearing to proceed in the Registrant’s absence provided they have received notice. The Panel was satisfied that the Registrant was properly notified.
5. After waiting for 15 minutes following the commencement of the Hearing, Mr. Haight, counsel for the CIC, requested that the matter proceed in the absence of the Registrant and the Panel agreed to do so.
6. Mr. Haight advised the Panel that the CIC would only proceed to adduce evidence with respect to Count 1 from the Notice which alleged:

“... between January 2, 2019, and January 3, 2019, at or near the City of Thompson in the Province of Manitoba, [the Registrant] did traffic in a controlled substance namely Oxycodone contrary to Section 5(1) of the *Controlled Drugs and Substances Act*”.

7. The CIC did not proceed with respect to Counts 2 and 3 contained in the Notice.

Plea

8. In light of the Member's non-attendance, Mr. Haight requested that the Panel enter a plea of not guilty to Count 1 and the Panel, on the Registrant's behalf, agreed to do so.

Evidence

9. The CIC called one witness – Ms. Heather Lynn Kolowca. Ms. Kolowca is a registered nurse and an investigator and case manager in the professional conduct department of the College and was the investigator appointed with respect to the Registrant's case.
10. The Panel heard uncontested evidence, through Ms. Kolowca and an Affidavit of David Barbour affirmed on October 30, 2023 (attaching as an exhibit, the Affidavit of [REDACTED] affirmed on September 20, 2023).
11. The Registrant has been registered with the College since November 27, 2013.
12. She worked at [REDACTED] Hospital for approximately four years between 2013 and 2017, at a provincial nursing station in [REDACTED] between 2017 and 2019 and then briefly doing contract work in [REDACTED] and [REDACTED] until February 15, 2020.
13. The Registrant has no previous discipline history with the College.
14. She was arrested and charged criminally on February 24, 2020 with three different charges including trafficking of oxycodone on January 2/3, 2019, contrary to subsection 5(1) of the *Controlled Substances Act*.
15. The College's investigation disclosed that the individual who initially contacted the College's Manager of Professional Conduct was [REDACTED] who worked at the [REDACTED] Clinic [REDACTED].

16. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
17. [REDACTED], [REDACTED] reported the matter to the College on or about March 5, 2020.
18. On March 19, 2020, the Registrant appeared before the CIC via teleconference and indicated they were prepared to voluntarily surrender their certificate of practice.
19. In accordance with subsection 102(1)(e) of the Act, the CIC accepted the voluntary surrender.
20. The Registrant did not sign the Voluntary Surrender Declaration until August 28, 2020.
21. The Voluntary Surrender Declaration expressly contemplates that the CIC would monitor the criminal proceedings.
22. The Voluntary Surrender Declaration remains in place today.
23. The criminal charges against the Registrant were stayed on September 13, 2021.
24. The CIC obtained, through its investigation, a copy of the RCMP file.
25. Court documents identify that [REDACTED], a known drug trafficker, was arrested, charged and pled guilty to drug related offences from January 2, 2019.
26. The documents include transcripts of an intercepted telephone conversation between [REDACTED] and the Registrant that shows they were involved in an illegal drug transaction on January 2, 2019 whereby the Registrant transferred money to [REDACTED] in exchange for oxycodone for the purposes of resale.
27. The evidence shows that the Registrant intended to sell the oxycodone to her coworkers.

28. The Registrant was on [REDACTED] leave and was not working as a registered nurse in January 2019.

29. Subsequent to August 2020, the Registrant has been unresponsive to communications from the CIC, the College, and counsel to the Panel.

Decision

30. Subsection 124(1) of the Act authorizes the Panel to make any finding permitted under subsection 124(2) which includes that a Registrant is guilty of conduct unbecoming a registered nurse.

31. The Panel finds that the evidence establishes the Registrant is guilty of conduct unbecoming a registered nurse as alleged in the Notice.

32. In particular, the Panel considers the Registrant's behaviour to be far outside the range of acceptable conduct as:

- (a) Their actions indicate that they were using their position as a registered nurse for personal benefit and demonstrates a lack of care for other people by trafficking a harmful, illegal, and controlled substance;
- (b) By potentially selling controlled substances illegally to coworkers, they failed to recognize the risks this imposed on those who could be going into the hospital; and
- (c) The risk to the safety of the hospital and those who were sold the controlled substances and then going to work could have gravely impacted patients and the public.

33. The authority of a Panel to make sentencing orders, and orders related to costs are found in sections 126 and 127 of the Act.

34. In reaching its decision, the Panel acknowledges the submissions of counsel to the CIC and was mindful of the objectives of such orders which have been articulated by various authorities.

35. In *The Regulation of Professions in Canada*, Carswell 2021, James T. Casey describes the purpose of sentencing in professional discipline cases, citing *McKee v. College of Psychologists (British Columbia)*, [1994] 9 W.W.R. 374 (at page 376):

[W]here the legislature has entrusted the disciplinary process to a self-governing professional body, the legislative purpose is regulation of the profession in the public interest. The emphasis must clearly be upon the protection of the public interest...

36. Citing *McKee* and a number of other authorities, Casey goes on to list the factors in determining how the public is protected including:

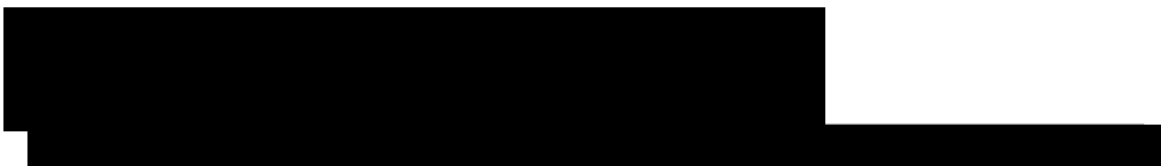
... specific deterrence of the member from engaging in further misconduct, general deterrence of other members of the profession, rehabilitation of the member, punishment of the offender, ..., the denunciation by society of the conduct, the need to maintain the public's confidence in the integrity of the profession's ability to properly supervise the conduct of its members, and ensuring that the penalty imposed is not disparate with penalties in other cases.

37. In addition to the aggravating factors noted in paragraph 32 above, the Panel also took into account that the Registrant had not participated in the hearing process and, subsequent to August 2020, was utterly unresponsive to communications from the College.

38. As for mitigating factors, the Panel noted that the Registrant had no previous discipline history and voluntarily surrendered her certificate of practice during the investigation process.

39. Counsel to the CIC provided the Panel with a number of similar cases with respect to previous costs orders, which are consistent with the request of the prosecution in this case.
40. The Panel was of the view that this offence was extremely serious and calls out for the most serious penalty.
41. In addition, the Panel wishes to send a strong message to the profession that this type of reprehensible behaviour will not be tolerated.
42. The Panel emphasizes that 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 and the College's ability to supervise the conduct of its registrants.
43. The Panel therefore makes the following Order:
 - (a) the Registrant's registration is hereby cancelled; and
 - (b) the Registrant is to pay to the College a contribution to the costs of the investigation and hearing in the amount of \$15,000.

DATED at Winnipeg, Manitoba, the 27th day of November 2023.



[REDACTED]

[REDACTED]