

IN THE MATTER OF: *The Regulated Health Professions Act*
 S.M. 2009 c. 15

AND IN THE MATTER OF: **An Inquiry Committee Panel into the Conduct of**
 TREVOR ROBERT FARLEY, CRNM #148046

DECISION AND REASONS



College of
Registered Nurses
of Manitoba

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4. The initial return date for the hearing was April 10, 2024 and it was adjourned on April 5, 2024 for a date to be fixed. A subsequent return date, as agreed by all parties on May 23, 2024, was set for June 18, 2024.

5. At the commencement of the hearing, it was established that the Amended Notice of Hearing dated June 13, 2024 (the "Notice"), had been properly served and the jurisdictional requirements set forth in subsections 102(3), 116(2), and 116(4) of *The Regulated Health Professions Act* (the "RHPA") had been met.

6. The Registrant consented in writing to the filing of the Notice.

7. No objections were raised as to the composition of the Panel.

8. The Notice alleged that:

- (a) On or about the October 27, 2021, at or near Hanover, Manitoba, the Registrant killed (his mother) Judith Elizabeth Swain.
- (b) On or about October 27, 2021, at or near Winnipeg, Manitoba, the Registrant killed (his father) Stuart Farley.
- (c) On or about October 27, 2021, at or near Winnipeg, Manitoba, the Registrant attempted to kill Candyce Lynn Szkwarek.
- (d) As a result of the conduct set out in paragraphs (a) - (c) above, the Registrant was charged under *The Criminal Code of Canada* (the "Criminal Code") for:
 - (i) The first-degree murder of Ms. Swain;
 - (ii) The second-degree murder of Mr. Farley; and
 - (iii) The attempted murder of Ms. Szkwarek.

(the "Criminal Charges")

- (e) The Criminal Charges were heard in the Manitoba Court of King's Bench (the "Court") on October 16, 17 and 18, 2023.
- (f) On October 17, 2023, pursuant to subsection 16(1) of the Criminal Code, the Court pronounced the Registrant not criminally responsible for all the Charges on account of mental disorder (the "NCR Finding").
- (g) On October 18, 2023, the Court declared the Registrant a high risk accused pursuant to subsection 672.64(1)(b) of the Criminal Code (the "High Risk Accused Order").
- (h) The High Risk Accused Order requires, among other things, that the Registrant shall remain in a hospital and not be permitted to be absent from the hospital unless:
 - (i) It is appropriate, in the opinion of the person in charge of the hospital, for them to be absent from the hospital for medical reasons or any other purpose that is necessary for their treatment;

- (ii) They be escorted all times by a person who is authorized by the person in charge of the hospital;
- (iii) A structured plan has been prepared to address any risk related to their absence from the hospital; and
- (iv) The person responsible for their treatment is satisfied that the Registrant's absence will not present an undue risk to the public.

9. The Notice alleged that the conduct described in paragraphs 8(a) to (c) above demonstrates: the Registrant's incapacity or unfitness to practice registered nursing; that they are suffering from an ailment that might be a danger to the public if they continue to practice registered nursing; and, that they are suffering from an ailment or emotional disturbance that impairs their ability to practice registered nursing (collectively, the "Charges").

10. The Notice, as filed with the Panel, deleted references to the Registrant having "contravened the [RHPA], a regulation, a standard of practice, practice direction, an entry level competency and/or the Code of Ethics."

11. A Statement of Agreed Facts and Position of Parties on Disposition dated June 14, 2024 and signed by the parties (the "Statement") was entered as an exhibit at the hearing.

Admissions/Acknowledgment

12. The Registrant admitted the truth and accuracy of the facts described in paragraph 8 above.

13. The Registrant admitted that, during the criminal proceedings, they had sufficient mental capacity to instruct their legal counsel.

14. Upon inquiry by the Panel during the hearing, the Registrant was adamant that they had sufficient mental capacity to deal with the Charges and to make the acknowledgment referred to below. The CIC concurred citing the nature of their interactions with the Registrant leading up to the hearing. The Panel was therefore satisfied there was sufficient evidence demonstrating the registrant's mental capacity to deal with these matters.

15. Ordinarily, Inquiry Committee Panels put registrants to the choice of entering a plea of guilty or not guilty to charges contained in a Notice of Hearing. Here, the Statement was conspicuous in the absence of such a plea.

16. The Registrant was not prepared to characterize their acknowledgment as a guilty plea. Their position was that, due to the Court's NCR Finding at the time of the murders and attempted murder, they were not then "guilty" of a crime and ought not now to be pleading "guilty" to the charges of professional misconduct when they were suffering from a mental disorder.

17. In place of a plea, the Registrant admitted and acknowledged to the Panel that the conduct and facts described in paragraph 8 above indicate that: they have demonstrated an incapacity or unfitness to practice registered nursing;

they are suffering from an ailment that might be a danger to the public if they continue to practice registered nursing; and, they are suffering from an ailment or emotional disturbance that impairs their ability to practice registered nursing.

18. As the Panel was satisfied of the Registrant's mental capacity to offer their admissions and acknowledgment, it determined that it would conduct a plea inquiry.

19. At the direction of the Chair, counsel to the Panel conducted a plea inquiry. The Panel was satisfied that the Registrant understood that, by making their admissions and offering their acknowledgment: they gave up the right to a hearing where the CIC would need to prove the allegations and they would have an opportunity to defend the allegations; and that they were not being influenced by anybody else and their admission/acknowledgment was voluntary.

20. The Registrant did not agree that their acknowledgment, if accepted by the Panel, would result in a disciplinary record with the College. The Panel's view differs but it was prepared nonetheless to accept the acknowledgment in light of the Registrant's other answers to the plea inquiry.

21. The parties agreed, and asked the Panel to find that, at the time of the killings and attempted killing and within the meaning of subsections 124(2)(e),(f), and (g) of the RHPA, the Registrant:

- (a) demonstrated an incapacity or unfitness to practice registered nursing;
- (b) was suffering from an ailment that might be a danger to the public if they continued to practice registered nursing; and
- (c) was suffering from an ailment or emotional disturbance that impairs their ability to practice registered nursing.

22. At paragraph 36 of the Statement, both the Registrant and the CIC asked the Panel to order, pursuant to subsection 126(1)(d) of the RHPA, that their certificate of practice be suspended, until they satisfy the CIC that their ailment or emotional disturbance no longer impairs their ability to practice registered nursing.

23. The Panel heard submissions from counsel for the CIC, describing the background facts giving rise to the matters raised in the Notice.

24. The Panel also heard from the Registrant who provided additional information on the events leading up to the Criminal Charges and their current circumstances.

25. The Panel asked the parties to provide some additional written submissions relating to the expected sequence of events should the Registrant seek removal of the High Risk Accused Order as a prelude to an application for reinstatement with the College. This was to be provided by July 2, 2024. A joint written submission was provided to the Panel on July 2, 2024.

26. The parties made a partial joint recommendation as to disposition of the matter and suggested an indefinite suspension of the Registrant's certificate of practice (the "Joint Recommendation").

27. The parties made separate submissions on the issues of whether costs should be ordered, which entity ought to hear any future application for reinstatement made by the Registrant and the direction, if any, to be provided by the Panel to that entity. The Panel notes that the Registrant's position at the hearing on which entity ought to hear any future application for reinstatement made by the Registrant was contrary to the position he signed off on at paragraph 36 of the Statement where he appeared to accept it would be the CIC.

28. After hearing those submissions, the Panel briefly adjourned to consider the Joint Recommendation along with the separate submissions noted in paragraph 27 above.

29. The Panel returned and advised the parties it was prepared to make the findings as agreed pursuant to subsections 124(2)(e), (f), and (g) of the RHPA to the effect that the Registrant:

- (a) demonstrated an incapacity or unfitness to practice registered nursing;
- (b) was suffering from an ailment that might be a danger to the public if they continued to practice registered nursing; and
- (c) was suffering from an ailment or emotional disturbance that impairs their ability to practice registered nursing.

30. The Panel also informed the parties that it was prepared to accept the Joint Recommendation to issue an Order pursuant to subsection 126(1)(d) of the RHPA to suspend the Registrant's certificate of registration and direct that the CIC would be the entity which ought to hear any future application for reinstatement made by the Registrant.

31. The Panel indicated that it would reserve its decision on costs and on the direction, if any, to be provided by the Panel to the CIC at a future reinstatement application.

32. The Panel informed the parties that it would subsequently provide written reasons. These are those reasons.

Facts

33. The Registrant graduated from the University of Manitoba with a Bachelor of Nursing degree in December 2013, has been a Registered Nurse ("RN") since 2014 and is 40 years old.

34. The Registrant has no previous discipline history.

35. The Registrant was employed as a registered nurse at the Seven Oaks General Hospital (the "SOGH"), Winnipeg, Manitoba from 2014 to October 26, 2021 when they resigned from their position. Initially, they had worked as a nurse in family medicine but was reassigned to the Geriatrics Rehabilitation unit in June 2019.

36. The Registrant started to exhibit signs of paranoia shortly after graduating from nursing. As time went on, the paranoia would subside and then return.

37. In the days leading up to the offences, the Registrant had been in contact with the Crisis Response Centre (“CRC”), 817 Bannatyne Avenue in Winnipeg.

38. They attended at the CRC on October 25, 2021 and were then directed to the Health Sciences Centre Emergency Room (“HSC”). After attending HSC, they twice attended at the St. Boniface Emergency Room (“SBER”). After the second attendance at SBER, they were discharged with a recommendation to see a counsellor.

39. On October 26, 2021, the Registrant attended at the CRC and requested mental health services and remained there overnight. The next morning, they met with and were assessed by the psych health team at CRC and they were issued an involuntary hospital admission pursuant to *The Mental Health Act*. The Registrant left the CRC contrary to the involuntary hospital admission at approximately 11:35 a.m. on October 27, 2021 and drove directly to his father’s home. Staff at the CRC contacted the police, however, within a few hours, the Registrant had committed the killings at his father’s home and his mother’s home, and then the attempted killing at SOGH.

40. The killings and attempted killing all occurred in the space of a few hours (between 11:41 a.m. and 11:45 a.m. for Mr. Farley, between 12:31 p.m. and 12:38 p.m. for Ms. Swain, and between 2:20 p.m. and 2:22 p.m. for Ms. Szkwarek) on October 27, 2021.

41. In between the two killings and the attempted killing, the Registrant attended at the SBER between 1:25 p.m. and 1:39 p.m. and at the CRC between 1:54 p.m. and 1:57 p.m.

42. The Registrant’s criminal trial occurred on October 16, 17 and 18, 2023.

43. An Agreed Statement of Facts was submitted to the Court by defence and Crown counsel in which the Registrant agreed that he killed his mother and father and attempted to kill Ms. Szkwarek.

44. Mr. Farley was not carrying out nursing duties at the time of these killings and attempted killing.

45. A forensic psychiatric report dated July 7, 2023 was submitted to the Court and includes assessments of the Registrant conducted by a Registered Psychologist, Dr. David Hill, and a Consultant Psychiatrist, Dr. Skye Rousseau.

46. Dr. Hill’s most preferred diagnosis was a “Major Depressive Episode with anxious distress with psychotic features”.

47. Dr. Rousseau’s opinion was that the Registrant “was severely impacted by psychotic symptoms at the time of the index offenses [sic], to such a degree [they were] unable to understand the nature of [their] actions...[and] was unable to appreciate the moral wrongfulness of [their] actions”.

48. Both the Crown and defence counsel jointly submitted to the Court that the Registrant should be found not criminally responsible of killing his parents and attempting to kill Ms. Szkwarek; and that the Registrant be declared a high risk accused.

49. In the Reasons for Judgment dated October 17, 2023, Mr. Justice Champagne found that:

- (a) the Registrant killed his mother and father and tried to kill Ms. Szkwarek; and
- (b) was not criminally responsible for the killings and the attempted killing on account of a mental disorder from which they were suffering which rendered them incapable of appreciating the nature of the act or of knowing that it was wrong.

50. By Reasons for Judgment dated October 18, 2023, Mr. Justice Champagne agreed with the joint submission of counsel that the Registrant's conduct was of such a brutal nature as to indicate a risk of great physical or psychological harm to another person and this justified the making of the High Risk Accused Order.

51. The purpose of the high risk accused provision of the Criminal Code is to add an extra level of protection for the public from accused persons who present an unacceptable high risk of violence. The designation requires a mandatory detention order with placement in a secure hospital setting. Only a Superior Court Justice can revoke the high risk accused designation and the hospital detention order. The provincial review board - in Manitoba, the Criminal Review Board ("CRB") - is tasked with managing the accused's risk within the detention order, but the CRB is unable to grant a conditional or absolute discharge.

52. In the Statement, the parties agreed that, within the confines of their illness, the Registrant exercised due diligence to obtain care until their illness overtook them and rendered them not criminally responsible for their conduct.

53. It was agreed that the Registrant could not appreciate that their conduct was unbecoming of a registered nurse, nor that their conduct breached the *Code of Ethics*, the Standards of Practice, Practice Expectations for Registered Nurses, or Entry Level Competencies.

54. The Registrant's mental disorder is currently being treated in a secure facility, and security measures are in place to ensure that they do not leave the facility, and they will not be permitted to leave unaccompanied until the Court so determines.

55. The process for removal of the High Risk Accused Order, should the Registrant ever decide to pursue it, is governed by section 672.84 of the Criminal Code and may be summarized as follows:

- (a) The test for removal for the Court of King's Bench Justice is to accept that there is not a substantial likelihood that the Registrant would use violence which could endanger the life or safety of another person (the "Substantial Likelihood of Violence Issue");

- (b) It is a practical (but not formalized) prerequisite for the CRB to first provide its input and consent and therefore the first step would be for the Registrant to ask that the CRB conduct an assessment of the Substantial Likelihood of Violence Issue;
- (c) If the assessment concludes there is not a substantial likelihood of violence, the matter would be referred to the Court of King's Bench which would then review the assessment and render its decision on whether the high risk accused designation ought to continue;
- (d) If the high risk accused designation was removed, the CRB would address whether the Registrant ought to be discharged, either conditionally or absolutely, from their treatment under the NCR Finding.

Submission of the CIC

56. As noted above, the CIC, with the consent of the Registrant, requested that the Registrant's certificate of practice be suspended, until they apply for reinstatement with the CIC and satisfy it that their ailment or emotional disturbance no longer impairs their ability to practice registered nursing and that the Registrant will have to satisfy all registration requirements of the College.

57. This future reinstatement application process presupposes the Registrant's discharge as a high risk accused as described above.

58. Subsection 126(1)(d) of the RHPA does not refer specifically to the CIC as the entity to be satisfied but rather to "a person or committee specified by the [P]anel".

59. At the hearing, the parties were unable to agree upon whether the CIC or this Panel ought to be the entity to consider any future reinstatement application.

60. Counsel for the CIC maintained that that the CIC was the natural choice to be that decision maker. Mr. Haight pointed out that the CIC would operate as a committee (as opposed to an one person) and that the CIC continuously deals with issues relating to public safety. He noted that this type of decision was not best suited for one person and emphasized that the CIC would be familiar with the imposition of conditions if required as this was something the CIC was otherwise empowered to do from time to time pursuant to section 110 of the RHPA.

61. Operating on the premise that the CIC was selected by this Panel as the decision-making entity on a reinstatement, the second area of disagreement related to the issue of whether the Panel ought to be directing the CIC to specifically consider the public interest. Counsel for the CIC submitted that it was appropriate to do so.

62. It was the CIC's position at the hearing that, in addition to its review of whether the Registrant is safe to return to registered nursing, the CIC must also consider whether their return to practice is contrary to or consistent with the public interest. The CIC's position is that upon such an application being made by the Registrant, the CIC must consider the public interest and that the Panel should so direct any future CIC in these reasons.

63. Counsel for the CIC argued that if this direction was not given and a future CIC only considered whether the Registrant was then “safe to practice”, the Registrant’s individual rights might supersede the collective rights of the public to be safe and this was not a supportable outcome. Mr. Haight submitted that there was no responsibility to accommodate the Registrant’s situation if that made it impossible to reconcile the public interest. Further, Mr. Haight referred to subsection 124(2)(f) which refers to “an ailment that might be a danger to the public” if a registrant continues to practise as a consideration relating to the public interest the CIC ought to be directed to consider in any future reinstatement application by the Registrant.

64. With respect to costs, counsel for the CIC noted that the Registrant is effectively impecunious and has no means by which they could earn a living. Nevertheless, the CIC maintained that some contribution to costs was justifiable.

65. Mr. Haight pointed to comments made by Mr. Justice Champagne in the criminal proceedings. In particular, he drew the Panel’s attention to page T7 of the Court’s Reasons for Judgment dated October 18, 2023 in support of the High Risk Accused Order, where Mr. Justice Champagne stated that the facts raised “a concern about [the Registrant’s] willingness to address mental health issues” and that prior to the killings and attempted killing, the Registrant concealed his mental health issues rather than addressing them.

66. Counsel for the CIC submitted that the killings and attempted killing and therefore these proceedings could perhaps have been avoided and that the Panel ought to consider this when it looked at whether the Registrant ought to be ordered to make a contribution to costs.

67. Mr. Haight requested a contribution to costs of \$15,000 which represented approximately half of the College’s incurred and anticipated costs - a reasonable percentage recovery of about 50% in line with the case law. Details of those costs were not submitted in evidence to the Panel.

68. In their submission, counsel for the CIC also reviewed the law on joint recommendations and the Panel’s need to ensure that the Joint Recommendation would not be contrary to the public interest and would not bring the administration of justice into disrepute. The CIC’s submission was that the Joint Recommendation would maintain the public’s confidence in the College’s ability to regulate its registrants in the public interest and they urged the Panel to accept it.

69. Counsel for the CIC submitted that its requested disposition (including the Joint Recommendation) recognizes that the Registrant was rendered incapable of appreciating the nature and quality of their acts and incapable of knowing their conduct was unbecoming of a registered nurse. It will also permit the College, through the CIC, to deal appropriately with any future reinstatement application.

Submission of the Registrant

70. Aside from the Joint Recommendation, and as noted above, at the hearing the Registrant did not accept the position of the CIC on which entity ought to hear any future application for reinstatement made by the Registrant, the direction, if any, to be provided by the Panel to that entity, and on costs.

71. The Registrant maintained that this Panel was best positioned to consider any future application for reinstatement as it would be able to determine “a just course of action” due to the “time, resources and expertise utilized in convening [the Inquiry Committee] hearing”.

72. The Registrant argued that a different entity taking the public interest into account on a reinstatement application would be a duplication of the Inquiry Committee hearing and would be an infringement of the Registrant’s sections 7 and 15(1) rights under the *Charter of Rights and Freedoms*. They maintained that it would be “morally inappropriate”, overbroad, and discriminatory to withhold their practising certificate or to impose conditions in a reinstatement context as that would amount to punishing them for their mental disorder.

73. Further, the Registrant submitted that any Order for costs was punitive, constituted a discriminatory barrier, and was unjustified as they had not committed professional misconduct and had attempted to obtain treatment for their mental disorder and the system had failed them resulting in the tragic outcome of the killings and attempted killing.

74. The Registrant stated that they were a good nurse before their mental illness flared up and they can be a good nurse once treated. They said that it is in the public interest to have another good nurse on the front lines in a nursing shortage.

Analysis and Decision

75. Subsection 124(1) of the Act authorizes the Panel to make any finding permitted under subsection 124(2) which includes that a registrant has committed professional misconduct.

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

77. As noted above, at the conclusion of the hearing on June 18, 2024, the Panel advised the parties that it had accepted the Joint Recommendation, and that the CIC would be the entity which ought to hear any future application for reinstatement made by the Registrant.

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

79. 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...

80. When determining an appropriate penalty, in accordance with *Jaswal v. Medical Board (Nfld.)* 1996 CanLII 11630 (NLSC), the Panel considered the following factors:

- (a) the nature and gravity of the proven allegations;
- (b) the experience of the Registrant;
- (c) the absence of any prior discipline history;
- (d) the number of times the offence was proven to have occurred;
- (e) the role of the Registrant in acknowledging what had occurred;
- (f) the presence or absence of any mitigating circumstances;
- (g) the need to promote specific and general deterrence and, thereby, to protect the public;
- (h) the need to maintain the public's confidence in the integrity of the profession; and,
- (i) the degree to which the offensive conduct that was found to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct the range of sentence in other similar cases.

81. In this case, the Panel noted the following aggravating factors:

- (a) the brutal and horrific nature of the killings and attempted killing; and
- (b) the High Risk Accused Order.

82. The Panel also took into consideration the following mitigating factors, noting that the Registrant:

- (a) has no previous discipline/complaints history;
- (b) was the subject of the NCR Finding;
- (c) cooperated with the College and acknowledged and admitted the conduct thereby saving the time and expense of a protracted disciplinary hearing.

83. In *Anthony Cook v Her Majesty the Queen*, 2016 SCC 43 ("*Anthony-Cook*"), the Supreme Court of Canada confirmed that an adjudicator may reject and depart from a joint recommendation on penalty only where the proposed

disposition would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

84. At paragraph 34 of that decision, the Court described this as an “undeniably high threshold”, writing:

[A] joint submission should not be rejected lightly... Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down.

R v Anthony-Cook, 2016 SCC 43 at para 34

85. Though the principles in *Anthony-Cook* were articulated in the context of a criminal prosecution, the “public interest test” has been adopted by healthcare regulators and regulators of other self-governing professions in Manitoba, including by a prior Inquiry Committee Panel of this College (see for example, *Marius* – February 14, 2024).

86. The Panel is satisfied that the Joint Recommendation acknowledges the seriousness of the Registrant’s actions and properly addresses and protects the public interest.

87. The Panel accepted the parties’ submissions that the Registrant, under the terms of the High Risk Accused Order, will be in a secure mental health facility until such time as he satisfies the CRB and the Court of King’s Bench on the Substantial Likelihood of Violence Issue.

88. The process on any future application for discharge of the High Risk Accused Order by the Registrant is sufficiently layered and rigorous that the protection of the public will be considered and protected before a reinstatement application is even considered by the College.

89. As to whether this Panel ought to hear a future reinstatement application by the Registrant, this Panel will be functus if and when that reinstatement application occurs. Further, in the view of the Panel, the actual circumstances for the Registrant at some undetermined future date, both with respect to their own fitness and their potential danger to the public will need to be assessed by a committee that has experience with and is familiar with what it assesses as both the Registrant’s fitness to practise and the public interest.

90. The Panel accepted that the CIC, and not this Panel, will be the most suitable entity to assess the public interest in its determination of any future application for reinstatement.

91. The Panel presumes that the CIC, as a committee of the College, would make its determinations in accordance with the statutory mandate of the College and the specific considerations set out in subsection 124(2)(e), (f), and (g), and 126(1)(d), or their successor sections in place at the time of any future reinstatement application. To be clear, in the Panel’s view, those considerations (as they now stand) would include not only whether the Registrant was suffering

from an, ailment or illness that impaired their ability to practise as an RN, or was otherwise unfit, but also whether they might be a danger to the public. Beyond that, it was the view of the Panel that it would not be appropriate for it to direct a future CIC how to do its job.

92. The Panel is satisfied that the CIC will have the expertise to consider, exercise its own discretion, and determine the applicability of the relevant sections of the RHPA, as well as how they fit with the evidence adduced before the CIC, if and when the time comes for the Registrant. Those issues may include *Charter* arguments and a weighing of individual and collective rights but it is not this Panel's place to address those arguments here as they are not properly matters for this Panel to decide in this proceeding. For that reason, the Panel has chosen not to weigh in on the *Charter* authorities relied upon by the Registrant in these reasons.

93. As to the requested contribution to costs, the Panel was not persuaded by the CIC's submission that the Registrant ought to pay a contribution to costs based on the Court's observations about his previous failure to address his mental health issues. In fact, paragraph 31 of the Statement (reflecting the agreement of the parties) explicitly recognized that the Registrant within "the confines of [their] illness... exercised due diligence to obtain care until [their] illness overtook [them]".

94. Ordinarily, Inquiry Committee panels are asked to, and often will, order contributions to costs against registrants who are either convicted of professional misconduct or enter a plea of guilty to a charge of professional misconduct. Here of course, as pointed out by the Registrant in their submission, there was no conviction for or guilty plea to professional misconduct. There is only an admission and acknowledgment that the conduct described in paragraph 8(a)-(c) occurred.

95. The Panel was of the view that ordering costs against the Registrant where they were the subject of the NCR Finding affixes responsibility on the Registrant which they should not bear.

96. In the circumstances, and in light of the agreement expressed in paragraph 31 of the Statement, the Panel is not prepared to order a contribution to costs.

97. With respect to publication of the Decision and Reasons, the Panel is satisfied based on the previous disclosure and publication in the criminal proceedings and the Court's release of information to counsel for the CIC (see the Reasons for Judgment dated October 18, 2023 at page T12), that the public interest justifies publication of the Decision and Reasons.

98. The Panel wishes to express its hope that the Registrant's treatment will continue to proceed in a positive manner.

99. The Panel therefore makes the following Order:

- (a) The Registrant's certificate of practice is suspended until such time as they satisfy the CIC that their ailment or emotional disturbance no longer impairs their ability to practise registered nursing and their ailment is not a danger to the public; and
- (b) There will be publication of the Decision and Reasons.

DATED at Winnipeg, Manitoba, the 28th day of August, 2024.

LYDIA HARRIS, Chair of the Panel *has authorized the use of electronic signature*

BRENDA SULLIVAN, Member *has authorized the use of electronic signature*

DONALD SOLAR, Public Representative *has authorized the use of electronic signature*

CHARITY REEVES, Member *has authorized the use of electronic signature*

JOSEPH LOVELACE, Public Representative *has authorized the use of electronic signature*

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ORDER

Pursuant to subsection 116(4) of *The Regulated Health Professions Act S.M. 2009 c. 15* (the “RHPA”), a Panel of the Inquiry Committee (the “Panel”) of the College of Registered Nurses of Manitoba (the “College”), constituted pursuant to sections 114 and 115 of the RHPA, conducted a hearing on Tuesday, June 18, 2024, concerning the conduct of Trevor Robert Farley (the “Registrant”), a registrant of the College under the RHPA.

The Amended Notice of Hearing dated June 13, 2024 (the “Notice”) alleges that the Registrant committed conduct which demonstrates: the Registrant’s incapacity or unfitness to practice registered nursing; that they are suffering from an ailment that might be a danger to the public if they continue to practice registered nursing; and, that they are suffering from an ailment or emotional disturbance that impairs their ability to practice registered nursing, the particulars of which are set out in the Notice.

The Panel heard submissions relating to disposition from both counsel for the Complaints Investigation Committee (the “CIC”) and the Registrant.

The Panel is satisfied that the Registrant committed acts which demonstrate: the Registrant’s incapacity or unfitness to practice registered nursing; that they are suffering from an ailment that might be a danger to the public if they continue to practice registered nursing; and, that they are suffering from an ailment or emotional disturbance that impairs their ability to practice registered nursing.

The Panel therefore orders that:

1. The Registrant's certificate of practice is suspended until such time as they satisfy the CIC that their ailment or emotional disturbance no longer impairs their ability to practice registered nursing and their ailment is not a danger to the public; and
2. There will be publication of the Decisions and Reasons.

DATED at Winnipeg, Manitoba, the 28th day of August, 2024.

LYDIA HARRIS, Chair of the Panel *has authorized the use of electronic signature*

BRENDA SULLIVAN, Member *has authorized the use of electronic signature*

DONALD SOLAR, Public Representative *has authorized the use of electronic signature*

CHARITY REEVES, Member *has authorized the use of electronic signature*

JOSEPH LOVELACE, Public Representative *has authorized the use of electronic signature*