

**IN THE MATTER OF A HEARING BY
THE DISCIPLINE COMMITTEE OF THE BRITISH COLUMBIA COLLEGE OF NURSES
AND MIDWIVES CONVENED PURSUANT TO THE PROVISIONS OF
THE *HEALTH PROFESSIONS ACT* RSBC 1996, c.183**

BETWEEN:

The British Columbia College of Nurses and Midwives

(the “College” or “BCCNM”)

AND:

Roshanak Rahi

(the “Respondent”)

DETERMINATION OF THE DISCIPLINE COMMITTEE

Hearing Dates:	Conducted by way of an oral hearing and written submissions concluding on February 3, 2023
Discipline Committee Panel:	Sheila Cessford, Chair Samantha Love, LPN Hannah Varto, MN, NP(F), SANE-A
Counsel for the College:	Jessica Lithwick Jennifer Crosman
For the Respondent:	appearing on her own behalf, self-represented
Counsel for the Panel:	Susan Precious

A. INTRODUCTION

1. A panel of the Discipline Committee (the “Panel”) of the British Columbia College of Nurses and Midwives (the “College” or “BCCNM”) conducted a hearing pursuant to section 38 of the *Health Professions Act* RSBC 1996 c.183 (the “Act” or the “HPA”), to determine whether Roshanak Rahi (the “Respondent”) failed to comply with the College’s standards, failed to comply with the Act or the College’s Bylaws,

committed professional misconduct or unprofessional conduct, or incompetently practised the profession.

2. For the reasons that are set out below, the Panel finds that the allegations set out in paragraphs 1, 2, 3 and 4 of the Further Amended Citation dated June 20, 2022 (the "Citation") were proved to the requisite standard. The Panel has determined that the Respondent committed professional misconduct.

B. BACKGROUND

3. On September 1, 2020, the British Columbia College of Nursing Professionals ("BCCNP") and the BCCNM amalgamated to form the BCCNM. Part 2.01 of the HPA provides that the BCCNM remains seized of complaints investigated and disciplinary proceedings that were initiated by BCCNP.
4. The particulars of the allegations against the Respondent are set out in the Citation as follows:

1. In or about October 2018 to January 2019, you provided and/or offered to provide cosmetic injectables at the Plateau Medical Clinic in Coquitlam, British Columbia ("Plateau"), namely dermal fillers and/or Botulinum Toxin Type A ("Botox"), without the ordering health professional being immediately available contrary to section 7(2) of the *Nurses (Licensed Practical Regulation)*, B.C. Reg. 224/2015, *Scope of Practice for Licensed Practical Nurses* regarding Restricted Activities with Orders, and the following Practice Standards and/or Professional Standards for Licensed Practical Nurses ("LPNs"): *Responsibility and Accountability* Professional Standard and *Medication Administration* Practice Standard.

This conduct also constitutes non-compliance with a standard, limit or condition imposed under the Act, professional misconduct and/or unprofessional conduct, breach of the Act or bylaws, or incompetent practice under s. 39(1) of the Act.

2. In or about October 2018 to January 2019, you acquired Botox from Dariush Honardoust and/or the BC Academy of Medical Aesthetics & Skin Care by means that you knew or ought to have known were not in compliance with section 2 of British Columbia's *Drug Schedules Regulation*, BC Reg 9/98.

This conduct constitutes professional misconduct and/or unprofessional conduct, breach of the Act or bylaws, or incompetent practice under s. 39(1) of the Act.

3. Beginning on or about August 5, 2019 and July 17, 2020, you made false statements to BCCNM investigators in relation to their investigation of the complaint against you made by the British Columbia College of Physicians and Surgeons on May 6, 2019 (the "Complaint") to the effect that you did not purchase

or receive Botox from the British Columbia Academy of Medical Aesthetics & Skin Care or Dariush Honardoust.

This conduct is contrary to the Responsibility and Accountability Professional Standard for LPNs and BCCNP Bylaw 338.

It also constitutes professional misconduct and/or unprofessional conduct, and/or breach of the Act or bylaws, or incompetent practice under s. 39(1) of the Act.

4. Between in or about October 2018 and January 2019, you told a representative of the College of Physicians and Surgeons of British Columbia and/or members of the Plateau Medical Clinic, expressly or by implication, that one or more of the activities particularized in paragraph 1 herein were “approved” by BCCNM and/or were within your authorized scope of practice as an LPN when you knew or should have known that this was untrue, contrary to the Responsibility and Accountability Professional Standard for LPNs and/or the Ethical Practice Professional Standard for LPNs.

This conduct also constitutes professional misconduct and/or unprofessional conduct, breach of the Act or bylaws, or incompetent practice under s. 39(1) of the Act.

5. The hearing took place via video-conference with Charest Reporting as the hearing administrator.
6. The College called the following witnesses:
 - a. Maia Sanchez (formerly Knight);
 - b. Jody Howard;
 - c. Dr. Daniel Kahwaji;
 - d. Jillian Fyvie;
 - e. Kristin Pytlewski;
 - f. Etienne van Eck;
 - g. Dariush Honardoust; and
 - h. Gail Holotuk.
7. The Respondent attended the hearing and testified on her own behalf.
8. The Panel’s determination takes into account the evidence adduced at the hearing and the parties’ oral and written submissions.

C. SERVICE OF CITATION

9. The original citation was issued on April 22, 2021 and served on the Respondent in accordance with the HPA. The citation was amended on April 13, 2022 and served. The College made an application on June 20, 2022, which was the first day of the hearing, to further amend the citation. This application was granted by the Panel that day. On June 21, 2022, the Citation was issued and served on the Respondent.
10. Service was not raised as an issue in these proceedings. The Panel is satisfied that the Respondent was properly served with the Citation.

D. LAW

Burden and Standard of Proof

11. The College bears the burden of proof and must prove its case on a “balance of probabilities.” The leading authority, *F.H. v. McDougall*, 2008 SCC 53, states that the “evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test.” The burden and standard of proof have been repeatedly applied in prior disciplinary matters of this College as well as many other regulatory bodies in British Columbia.

HPA

12. The HPA provides that on completion of a hearing, the Discipline Committee may dismiss the matter, or determine that the Respondent:

39(1)...

- (a) has not complied with this Act, a regulation or a bylaw,
- (b) has not complied with a standard, limit or condition imposed under this Act,
- (c) has committed professional misconduct or unprofessional conduct,
- (d) has incompetently practised the designated health profession, or
- (e) suffers from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs their ability to practise the designated health profession.

13. Section 16 of the HPA sets out the College's duties to at all times serve and protect the public and exercise its powers and discharge its responsibilities under all enactments in the public interest.
14. Section 19(8) of the HPA provides that registrants must not practise a designated health profession except in accordance with the bylaws of the College. The College enacts its professional standards by way of bylaws.

Professional Standards and Practice Standards

15. The Professional Standards for Licensed Practical Nurses ("Professional Standards") guide and direct the LPN practice. It is the minimum level of acceptable performance. There are four Professional Standards as follows:
 - a. Standard 1: Responsibility and Accountability
 - b. Standard 2: Competency-Based Practice
 - c. Standard 3: Client-Focused Provision of Service
 - d. Standard 4: Ethical Practice
16. The following indicators in Standard 1 are relevant to this case:
 4. Practises within own level of competence, employer policies, the LPN scope of practice and all relevant legislation
 5. Is accountable and responsible for own nursing decisions, actions and professional conduct
 6. Seeks guidance and direction as required
 7. Takes action to promote safe, competent and ethical care for clients
17. The following indicators in Standard 4 are relevant to this case:
 1. Demonstrates honesty and integrity at all times
 2. Represents self clearly and accurately with respect to name, title and role
18. Nurses are also expected to meet the requirements set out in the BCCNM's "Practice Standards", which set out requirements for specific aspects of practice and complement the Professional Standards.

19. The *Medication Administration Practice Standard* for LPNs, which was in place during the material times, forms part of Allegation 1 of the Citation. The following provisions from the *Medication Administration Practice Standard* are relevant to this case:

What is Medication Administration

Medication administration involves preparing and giving scheduled and unscheduled drugs to a client and evaluating the effect of the drugs on the client.

The Nurses (Licensed Practical) Regulation authorizes licensed practical nurses (LPNs) to compound, dispense and administer medications. LPNs dispense medications with a client-specific order from an authorized health professional.¹ Although most drugs require an order from an authorized health professional, there are some exceptions, which are identified in CLPNBC's Scope of Practice for Licensed Practical Nurses.

Principles

1. LPNs administer medications within the Regulation, CLPNBC standards, limits and conditions, employer policy and their individual competence.

...

3. LPNs adhere to the 'rights' of medication administration. These include Right Medication, Right Client, Right Dose, Right Time, Right Route, Right Reason and Right Documentation.

4. LPNs determine all client-specific orders are clear, complete, current, legible and clinically relevant for the client before administering any medication.

...

7. Except in an emergency, LPNs only administer medications they themselves or a pharmacist has prepared for a specific client.

8. LPNs verify that medication orders, pharmacy labels and medication administration records are complete and include:

- the name of the client
- the name of the medication
- the medication strength
- the dosage, route and frequency

...

Applying the Principles to Practice

To manage medication administration in your nursing practice, consider the following.

- Read CLPNBC's Scope of Practice for Licensed Practical Nurses to understand the standards, limits and conditions related to administering medications. In particular, review the standards for acting with an order and the standards for acting without an order.

...

- Prepare medications in as close proximity to the client as possible. Avoid pre-pouring medication as it may lead to an error.

- Be aware of medications that may cause serious injury or death if not used correctly. These "high alert" medications include heparin, warfarin, insulin, chemotherapeutic agents, concentrated electrolytes, opiate narcotics, neuromuscular blocking agents, thrombolytics and adrenergic agonists.

...

Footnotes:

1 LPNs can carry out orders from nine health professionals in BC: dentists, medical doctors, midwives, naturopaths, nurse practitioners, pharmacists, podiatrists, registered nurses and registered psychiatric nurses....

Bylaws

20. Section 338 of the BCCNP's Bylaws provided at the material times:

338 (1) A registrant who is the subject of a complaint being assessed under section 32(2) of the Act or a matter being investigated under section 33 of the Act must cooperate fully in the assessment or investigation including, without limitation, by responding fully and substantively, in the form and manner acceptable to the inquiry committee,

(a) to the complaint, if any, once the complaint or a summary of it is delivered to the registrant, and

(b) to all requests made or requirements imposed by an inspector or the inquiry committee in the course of the assessment or investigation.

Authority to Perform Cosmetic Injections

21. The administration of cosmetic injections by LPNs in British Columbia was regulated during the material times through the following:

- a. The *Drug Regulation*, BC Reg 9/98
 - b. The *Nurses (Licensed Practical) Regulation*, BC Reg 224/2015
 - c. The *Scope of Practice for Licensed Practical Nurses*
22. The Drug Regulation governs which substances require a prescription for sale, including Botox. It also creates rules concerning the sale of some types of dermal fillers. Botox is a Schedule I drug under the Drug Regulation. Section 2(1) of the Drug Regulation requires a prescription:

2 (1) Drugs listed in Schedules I, IA, II, III and IV must be sold from licensed pharmacies.

(2) Unscheduled drugs may be sold from non-pharmacy outlets.

(3) The various schedules are differentiated as follows:

Schedule I (Prescription): Schedule I drugs require a prescription for sale and are provided to the public by a pharmacist following the diagnosis and professional intervention of a practitioner. The sale is controlled in a regulated environment as defined by provincial pharmacy legislation. Entries followed by a "V" superscript may be sold without having received a prescription if

(a) the drug is in a form not suitable for human use, or

(b) the main panel of the manufacturer's inner label and the manufacturer's outer label carry, in both official languages, the statement "For Veterinary Use Only" or "For Agricultural Use Only" immediately following or preceding the brand name, proper name or common name, in type size not less than one-half as large as the largest type on the label, and the product is sold in the original manufacturer's container.

23. Some dermal fillers qualify as Schedule II drugs under the Drug Regulation. Section 2(3) of the Drug Regulation provides that Schedule II drugs must be retained in the area of a pharmacy in which there is no public access or opportunity for patient self-selection:

Schedule II (Professional Service Area): Drugs which may be sold by a pharmacist on a non-prescription basis and which must be retained within the Professional Service Area of the pharmacy where there is no public access and no opportunity for patient self-selection.

24. The LPN Regulation limits an LPN's ability to inject substances and to administer prescription-only drugs. Sections 7(1) and 7(2) provide:

7 (1) A registrant in the course of practising practical nursing may do any of the following:

- ...
- (c) administer a substance by
 - (i) injection,
 - (ii) inhalation,
 - (iii) mechanical ventilation,
 - (iv) irrigation, or
 - (v) enteral instillation or parenteral instillation;

(2) A registrant may provide a service that includes the performance of an activity described in subsection (1), other than the activity described in subsection (1) (b), only as follows:

- (a) to the extent the activity is one described in section 6 (1), without an order as described in paragraph (b) of this subsection;
- (b) to the extent the activity is not one described in section 6 (1), if the registrant provides the service for the purpose of implementing an order and, at the time that the registrant provides the service,
 - (i) the health professional who issues the order is authorized, under the Act or by the body in Alberta, Yukon or the Northwest Territories that regulates the health profession of that health professional, to
 - (A) provide the service without an order or equivalent instruction or authorization, or
 - (B) issue an order or equivalent instruction or authorization for the service to be provided, and
 - (ii) the registrant is authorized under the Act to provide the service.

25. The LPN Scope of Practice incorporates the limitations in these regulations and adds further restrictions including an educational requirement, a requirement that the ordering health professional be present at the time these restricted drugs and substances are administered, and includes any dermal fillers in these restrictions, regardless of whether they are scheduled substances under the Drug Regulation.
26. Section 12(2)(d) of the HPA provides the BCCNM with the authority to set limits or conditions on the services that LPNs may provide by regulation. Section 13(1) of the

HPA provides that if a regulation under section 12(2)(d) limits the services that may be provided in the course of practice of a designated health profession, a registrant must limit their practice of that designated health profession in accordance with the regulation. The LPN Scope of Practice falls within these provisions.

27. The glossary of the LPN Scope of Practice provides the following regarding “dermal fillers”:

Some dermal fillers are considered to be substances (i.e., Juvaderm, Restylane and other hyaluronic acid, polylactic acid and calcium based dermal fillers), while others are Schedule II drugs (i.e., hyaluronic acid and its salts – preparations in concentrations of 5% or more).

28. Dermal fillers appear in two areas of the LPN Scope of Practice. Schedule II Dermal Fillers appear in the Restricted Activities with Orders section, along with Botox. The remainder are considered to be “substances” and are referenced in the Restricted Activities Without Orders section. Irrespective, the requirements for administration of dermal fillers and Botox injections are the same under the LPN Scope of Practice.

29. Collectively, the above regulatory framework establishes a limited scope of practice for LPNs to perform cosmetic injections. These may only be administered for cosmetic purposes:

- a. After successfully completing additional education; and
- b. When the ordering health professional is immediately available.

30. The term “order” is defined as follows:

Order: An instruction or authorization issued by an authorized health professional for an activity the LPN may carry out for a specific client. Orders may include instructions that are pre-printed and set out the usual care for a particular client group or client problem. The health professional giving the order must be authorized to perform the activity without an order and the activity must be within the scope of practice of LPNs. Orders are made client-specific when the ordering health professional adds the name of the individual client, making any necessary changes to the printed order to reflect the needs of the individual client and dating and signing the order.

31. The term “additional education” is defined as follows:

Additional education: Structured education (e.g., a workshop, course or program of study) designed so that LPNs can attain the competencies required to carry out a specific activity as part of LPN practice. Additional education builds on the entry-level competencies of LPNs, identifies the competencies expected of LPNs, includes both theory and application to practice and includes an objective, external evaluation of LPNs' competencies.

32. The College does not approve or accredit additional educational programs for cosmetic injection. Registrants must be satisfied that they have gained the competence they need to perform the task through a program that includes both theory and application to practice and involves external evaluation of competencies.

33. The words “immediately available” are defined as follows:

The LPN has access to an authorized health professional who is physically available at the point of care.

34. An “authorized health professional” is defined as follows:

The health professionals authorized to issue client-specific orders for activities that LPNs may carry out include dentists, medical doctors, midwives, naturopaths, nurse practitioners, pharmacists, podiatrists, registered nurses, registered psychiatric nurses or health professionals who hold an equivalent designation in Alberta, the Yukon or Northwest Territories.

Professional Misconduct and Unprofessional Conduct

35. Section 26 of the HPA contains the following definitions:

"professional misconduct" includes sexual misconduct, unethical conduct, infamous conduct and conduct unbecoming a member of the health profession;

[...]

"unprofessional conduct" includes professional misconduct.

36. The term unprofessional conduct is defined in the HPA to include professional misconduct. Professional misconduct is defined to include others forms of misconduct. No other definitions are provided. Unprofessional conduct is broader than professional misconduct.

37. In *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 SCR 869, the Supreme Court of Canada held that professional misconduct is a “wide and general term” which encompasses “conduct which would be reasonably regarded as disgraceful, dishonorable, or unbecoming of a member of the profession by his well-

respected brethren in the group -- persons of integrity and good reputation amongst the membership.” This standard has been adopted by the College’s Discipline Committee including in the recent decision of *BCCNM v. Perry* (February 4, 2021).

38. The Panel also notes that the concept of professional misconduct has also been defined as a “marked departure” from the expected standard. In *Salway v. Association of Professional Engineers and Geoscientists of British Columbia*, 2010 BCCA 94, the Court of Appeal held that it is the discipline committee of a professional organization that sets the professional standards for that organization. Those standards may be written or unwritten.

Rules of evidence

39. The College submits that admissions can be made in a variety of manners. Formal admissions can be adduced via an agreed statement of facts. Pre-hearing admissions can also be made through documents that form part of the evidentiary record. If they were made orally, they can be adduced via witness evidence. The College submits that silence can also constitute an admission. Pre-hearing admissions are hearsay; however, even in a court proceeding with stricter rules of evidence, they are admissible evidence because the party who made the pre-hearing admission is present and can offer an explanation or a denial if they disagree with the witness’ testimony. The College submits that the Respondent’s informal admissions to the College’s witnesses are admissible for their truth in this proceeding. The Respondent did not disagree with the law and approach set out by the College above.
40. The Panel agrees with the College’s submission about the law relating to admissions generally. The Panel also notes that the rules of evidence are flexible when it comes to matters before administrative tribunals. There is discretion to admit evidence that would not be admissible in court proceedings. This includes hearsay evidence where it is relevant and fairly regarded as reliable.
41. The College also submits that both circumstantial and direct evidence are admissible. The Panel agrees. Circumstantial evidence has been admitted in other professional regulatory proceedings (see for example, *Ontario (College of*

Physicians and Surgeons of Ontario) v. Chandra, 2018 ONCPSD 28). An inference may be drawn where the evidence offered in support of it renders such an inference more probable than the other possible inferences or hypotheses. The College submits that it is open to the Panel to conclude that events occurred without knowing exactly how those events occurred, and relies upon the decision of *R. v. Vader*, 2016 ABQB 505 in support of that. The Panel agrees.

Officially Induced Error

42. The College submits that the Respondent asserted at several points of the hearing that aspects of her actions were approved or guided by Ms. Sanchez, one of the College's practice advisors. The College submits that because the Respondent did not admit to operating under any misunderstanding at any point, she has no defence to the allegations in the Citation on the basis of officially induced error.
43. The College notes that while ignorance of the law is not a defence to professional misconduct, registrants may be able to excuse or diminish their wrongdoing if they have proven they were operating under officially induced error.
44. Officially induced error was defined in *Law Society of Ontario v. Mazinani*, 2020 ONLSTH 123 as follows:

[252] The doctrine in *Jorgenson* is inapplicable in the present case. *Jorgenson* refers to an exception to the common law rule that ignorance of the law is no excuse for violating it. Under this exception, a wrongdoer may be excused from culpable conduct if she can show reasonable reliance on official advice that was incorrect. In a subsequently-decided case, the Supreme Court of Canada held:

The defence of officially induced error is intended to protect a diligent person who first questions a government authority about the interpretation of legislation so as to be sure to comply with it and then is prosecuted by the same government for acting in accordance with the interpretation the authority gave to him or her.

45. The College submits that the doctrine is not applicable to this case because the Respondent has denied any wrongdoing and has not indicated that Ms. Sanchez gave advice inconsistent with the laws and rules governing the purchase of Botox

and/or the administration of Botox and dermal fillers by an LPN. As such, the College argues that the elements of the defence are not made out.

46. The Panel agrees that the defence exists but is not engaged in this case. The Respondent denied any wrongdoing, and she was not prosecuted by the College for acting in accordance with incorrect advice that it provided to the Respondent.

Credibility

47. The College refers to *Faryna v. Chorny*, 1951 Canlii 252 (BCCA) in the assessment of witness credibility:

The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistencies with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

48. The College also cites *Bradshaw and Stenner*, 2010 BCSC 1398:

[186] Credibility involves an assessment of the trustworthiness of a witness' testimony based upon the veracity or sincerity of a witness and the accuracy of the evidence that the witness provides (*Raymond v. Bosanquet (Township)* (1919), 1919 CanLII 11 (SCC), 59 S.C.R. 452, 50 D.L.R. 560 (S.C.C.)). The art of assessment involves examination of various factors such as the ability and opportunity to observe events, the firmness of his memory, the ability to resist the influence of interest to modify his recollection, whether the witness' evidence harmonizes with independent evidence that has been accepted, whether the witness changes his testimony during direct and cross-examination, whether the witness' testimony seems unreasonable, impossible, or unlikely, whether a witness has a motive to lie, and the demeanour of a witness generally (*Wallace v. Davis*, [1926] 31 O.W.N. 202 (Ont.H.C.); *Faryna v. Chorny*, 1951 CanLII 252 (BC CA), [1952] 2 D.L.R. 354 (B.C.C.A.) [*Faryna*]; *R. v. S.(R.D.)*, 1997 CanLII 324 (SCC), [1997] 3 S.C.R. 484 at para.128 (S.C.C.)). Ultimately, the validity of the evidence depends on whether the evidence is consistent with the probabilities affecting the case as a whole and shown to be in existence at the time (*Faryna* at para. 356).

49. The Panel agrees that these two cases are useful to guide the assessment of credibility. They have been referred to in multiple professional regulatory cases in the province, including by this Discipline Committee.

F. EVIDENCE

The College

50. As noted above, Maia Sanchez (formerly Knight) was a practice advisor with the College. She testified about her background, the role of a practice advisor, and her specific interactions with the Respondent.
51. Ms. Sanchez worked as an LPN in the United States Navy, following which she moved to Canada and worked in Orthopaedics. She worked as a nurse educator for Sprott Shaw College and as a nursing coordinator in Kelowna from 2012 to 2014. She taught a course called “Nursing Practice” or “Professional Practice”, which teaches practical nursing students about the authority given to LPNs practicing in British Columbia and the limitations of that authority through legislation and scope of practice. Ms. Sanchez initially worked as a registration advisor with the BCCNM. In the fall of 2017, Ms. Sanchez became an LPN practice advisor with the BCCNM.
52. Ms. Sanchez testified that the role of a practice advisor is to help registrants locate resources. They do not provide business approvals or clinical advice to registrants.
53. Ms. Sanchez testified about her record-keeping practices. Practice advisors are trained to record every communication as soon as possible and create a log of communications in the College’s Customer Relationship Management System (“CRM”). This permits practice advisors to quickly update themselves on a registrant’s practice consultation history with the College during communications with that registrant. Ms. Sanchez testified that she strictly adhered to this practice, as did her colleagues. She recorded every phone call and in person meeting with a registrant. Her practice was to make shorthand notes in CRM and then to flesh those out immediately at the end of the call. She noted that was important to do as the phone rings often and it is important to complete the communication summary before taking the next call.
54. Ms. Sanchez testified that it was important to remain consistent, accurate and defensible. The same information needed to be provided to registrants calling with similar questions.

55. The Panel found Ms. Sanchez's evidence to be clear, consistent, and careful. She readily admitted when she could not recall something specific. The Panel found Ms. Sanchez's evidence about her practice of recording phone calls was consistent with the chronology of this matter, it was consistent with the written record, and it was plausible.

The Respondent

56. The Respondent graduated from high school in Victoria. From 2004 to 2015, she worked in customer service for banks. She subsequently worked for her father's company from 2016 to 2017.
57. From 2016 to 2018, while in nursing school, the Respondent had a part-time aesthetics business run out of a wellness centre in Coquitlam, BC. The Respondent offered makeup consultation and services.
58. On January 13, 2017, the Respondent graduated from the Vancouver Career College with a certificate in Licensed Practical Nursing. The Respondent passed the College's qualification exam on June 26, 2018.
59. The Respondent became a College registrant on July 24, 2018.
60. On July 27, 2018, the Respondent had a call with a College practice advisor (Ms. Evanishin) during which she asked questions about the use of the LPN title, her book on anti-cancer diet, and the possibility of pursuing additional nursing training in the United States.
61. The *Use of LPN Title Practice Standard* for LPNs that was in place at the material times set out the requirements for LPNs regarding protected titles, including "LPN" or "Nurse". An LPN was required to use their protected title in ways that comply with the HPA, the LPN Regulation, CLPNBC Bylaws and CLPNBC Standards of Practice. If self-employed, they were required to follow the BC Registry Services' process for seeking name approval if the business name included the title "nurse."
62. The Respondent admitted that by the summer of 2018, she understood that she was required to have the College's permission before using her nursing title for business purposes.

63. On August 31, 2018, the Respondent had a call with Ms. Sanchez about the transition from student to registrant and resources for self-employed LPNs. Ms. Sanchez testified that if she discussed specifics relating to scope of practice, she would have made a note to that effect, and it would have been identified as the primary issue in the CRM.
64. In September 2018, the Respondent completed two days of coursework at the British Columbia Academy of Medical Aesthetics (the "BCAMA"). She was given two certificates:
 - a. a Certificate of Completion of Cosmetic Administration of Botulinum Toxin (Botox), and
 - b. a Certificate of Completion for Soft Tissue Injectable Dermal Fillers.
65. The Respondent testified that she borrowed money from her father and brother to pay for the courses.
66. The Respondent testified that she could not recall whether she performed injections on live people at the BCAMA. She said that it was too long ago. She did remember receiving training on class models.
67. On September 12, 2018, the Respondent emailed the College's general practice advisor email address with the following questions regarding advertising, medical aesthetics, scope of practice and self-employment:
 - what are the Medical Aesthetician LPN scope of practice.
 - If I have to register my own business in Medical Aesthetic field, what are the rules and regulations.
 - Am I able to advertise in social media and in public and if so what are the outlines of the advertisement.
 - Am I able to advertise with my Nursing photo and include services that I am trained for such as Botox and Fillers?
 - Is it Mandatory to include the clinic address in the advertise? (My concern is there would be an existing Medical Spa or Medical Clinic name associated with that address and would that make a conflict)
 - One of my options I heard is to rent a space in a Medical clinic setting where a physician would be having a direct supervision and I want to know if this is correct.

- Does client have to bring me a physician note to be approved for cosmetic treatments like Botox and Fillers?
- Can LPN work with an RN who has Medical Aesthetic certificate in a medical setting or Medical spa without a physician?
- Can RN operate a Medical spa without having a direct supervision of physician?

68. Ms. Evanishin responded by email to the Respondent that day, providing her with links to self-employment resources and stating:

Nursing standards for LPNs - here you will find the professional, practice standards and Scope of practice for LPNs document. I suggest that you look at the Scope of Practice for LPNs document to obtain the limits and conditions related to the nursing activities that you were speaking about. Example: derma fillers is restricted activity with orders #20 that requires an order from an authorised health professional (list on page 5&6) and limits and conditions for this activity can be found on page 23. You will need to locate each nursing activity to obtain the limits and conditions.

69. On September 13, 2018, the Respondent and Ms. Sanchez had a telephone call. Ms. Sanchez could not recall why the meeting was by phone as opposed to in person. The primary issue listed in the CRM log is “self-employment” and not “scope of practice”. Ms. Sanchez testified that if they had discussed scope of practice, she would have listed that as the primary issue because it is what she described as a “higher acuity” question. Ms. Sanchez sent a follow up email to the Respondent on September 13, 2018 thanking her for discussing her interest in starting her own business. Ms. Sanchez also proposed scheduling another meeting to discuss the scope of practice issues that would more frequently affect the Respondent’s practice. A meeting was scheduled for September 24, 2018 but there is no record of it having occurred. Ms. Sanchez testified that if there is no record of the meeting in CRM, it did not take place.

70. The Respondent testified that the meeting must have taken place and she and Ms. Sanchez were in frequent communication. The Respondent however gave inconsistent testimony by also indicating that the meeting did not take place. During her cross-examination of Ms. Sanchez, the Respondent asked, “Let’s recall on September 13th. Okay. Which that – to me, that was the second time – sorry. October 26th, 2018 was the second attempt that – I was waiting for a call that I never

received.” The Panel finds the evidence to be more likely that the September 24, 2018 meeting did not take place.

71. The Respondent emailed the College on October 26 and 29, 2018 regarding obtaining consent for use of title. The Respondent’s October 29, 2018 email to the Regulatory Policy and Practice Departments states:

...I have a few questions to inquire regarding my journey to entrepreneurship. I would like to find out whether I can use this trademark name, "Nurse Rosha" for selling products since I am yet to register my trademark and would need guidance regarding my rights in this career. On this note, would it be legally right using my Nursing title in selling products? Kindly let me know if there are any restrictions by law regarding content advertising and whether I can use my Nursing uniform picture as part of my logo. Additionally, I would want to inquire about the LPN guidelines of the scope of practice for entrepreneur which is critical in deciding whether to start the business.

72. On November 18, 2018, the Respondent emailed the College’s Regulatory Policy Department further regarding the use of title:

... I have obtained Medical Aesthetics certificate of Soft Tissue Dermal Fillers as well as Certificate of Botox injectables from BC Academy of Medical Aesthetics and Skin Care. I also have Beauty Safe Certifications, CPR and First aid certifications and I like to register business name as Nurse Rosha to have my Medical Aesthetic business inside an existing Medical Clinic under direct supervision of physicians. I would be the only Nurse injector in this Medical Aesthetic business...

73. On December 6, 2018, the Respondent received consent from the College’s Deputy Registrar to use the title “nurse” for her Nurse Rosha business. The consent letter which the Respondent signed on December 10, 2018 states that the College’s consent is contingent upon the Respondent only providing nursing services falling within her authorized scope of practice. It encouraged the Respondent to access related resources which were identified in the letter. This included the limits and conditions for administering Botulinum Toxin Type A products in the LPN Scope of Practice.

74. On December 27, 2018, the Respondent renewed her registration with the College. She reported that she worked 600 hours in 2018. Plateau Medical Clinic is the only work experience the Respondent had for that year.

75. The Respondent testified that she circulated a flyer to 200 physicians before securing her rental space at Plateau Medical Clinic. The flyer was not previously produced to the College. The flyer states:

Dear Physician,

My name is Roshanak Rahi.

I am a Licensed Practical Nurse and a certified Medical Aesthetician with Dermal fillers and Botox, based in Vancouver, BC. I aspire to partner with you in improving the welfare of the citizens within my area of specialization.

My main specialization entails performing the latest regenerative skin care treatment. I am also familiar with fundamental chemicals including Teosyal, Juvederm, Botox, Voluma and Volbella.

I believe that aesthetic skin care treatment is a critical need for the population... I commence my work with careful articulation of the needs of individual patients before facilitating a practical treatment process. I already have an established clientele based on my practice. It will not only validate my competence, but will also help us extend our aspirations to a broader region.

I look forward to partnering with you to move to the next step in my career. I aspire to be part of your team of physicians so that, together, we can raise the standards in dealing with medical aesthetic and related ailments.

76. The Respondent testified that the specialization referenced in the flyer was in relation to her BCAMA courses. The Respondent denied that her statement “I already have an established clientele based upon my practice...” was an admission that she had already performed cosmetic injections. Rather, “the clients” referred to her makeup clients. The Respondent denied that her statement was misleading given that the poster related to medical aesthetics.
77. The Respondent admitted in cross-examination that she sent this flyer out because she knew that she had to be working alongside a health professional who could prescribe the substances listed in the flyer.
78. The Respondent admitted on cross-examination that Botox requires refrigeration.
79. The Respondent testified that she did not purchase Botox from the BCAMA for use in her business.
80. The Respondent testified on cross-examination that in her College registration renewal documents, the 600 hours she reported in 2018 were spent providing free

consultations. The Respondent reported that she was working on a full-time basis. The address which she provided to the College was Plateau Medical Clinic. The Respondent did not select “research” or “consulting” amongst the other options on the College form. She certified that the information provided to the College was true and complete to the best of her knowledge. The Respondent testified that she completed the form with Ms. Sanchez’s assistance.

81. On December 27, 2018, however, the Respondent emailed Ms. Sanchez stating:

....I have a question about updating my employment information. I just renewed my registration application and in that application I entered the Medical clinic which I am currently working at but I like to know if there is any other place in the BCCNP site that I have to enter my employment information specially that I am self-employed.

82. The Respondent also testified on cross-examination that she intended to write a book based upon data she gathered about patients’ interest in medical aesthetics:

Q [...] What was that book about?

A Okay. I wanted to -- it was my -- one of my goal to actually be -- being able to gather data. As we know, nurses, they do assessments; they collect data, and they take notes, and they do everything they can to get an idea of what each, you know, person to see what is their personalized custom, things that matters to them, what is unique to everybody, what they're trying to achieve, what type and why.

So this is, like, all a practice that you would want to know and to take notes and to just see why people are interested.

I wanted to make a book to show that this is an area that people are interested these days, and, you know, to collect data on it to see how people see themselves different; what is important to each person and how different it can be from person to person.

So for me, it was interesting to come up with a book to show that everybody has their own type of, you know, goal that they have for themselves that is important and what they like to achieve out of that treatment. You know, it was just to have that customized notes based on per person and what their interest is from, you know, medical aesthetic.

83. The Respondent testified that she did not complete the book because there was such a short period of time before the Respondent received the telephone call from the College of Physicians and Surgeons of BC (“CPSBC”). She did not have the opportunity to start collecting the data and information for her book. The Respondent was pressed on cross-examination to explain how 600 hours could be described as

a short period, and how she can account for what she did during those 600 hours.

The Respondent answered as follows:

A Well, that's what I mean. Just that 600 hours that I was there it's not a long time to come up with a book.

Do you know how long it takes to write a book? Because I have the experience, in fact. Do you know how long it takes to come up with all the information?

Not only that. You need to have somebody reread it, to have edited, to go through a lot of page formatting and all those kind of things.

You know how long it takes? At least over a year. At least over a year we're talking about.

So that itself talks for itself. I mean, I don't need to, you know, go more depth into that for you, I think.

84. The Respondent was asked whether she had any clients of her own while at Plateau Medical Clinic. The Respondent testified that she did not have any patients of her own but all “walk-ins”. She said “I mean, it was basically just walk-ins that sometimes if they – if I was in the office and that I was you know, available to provide free consultation for them, I would do that. That was the idea just to gather some data while I was there.”
85. The Respondent’s testimony during the Discipline Hearing was largely focussed on her anger towards Dariush Honardoust and the BCAMA. She felt that she was victim of unauthorized acts by Mr. Honardoust. The Respondent also repeatedly asserted that every step that she took in relation to her career was in conjunction with communication to the College, and specifically the practice advisors.
86. The Panel found the Respondent’s testimony was frequently evasive and argumentative. The Panel directed the Respondent to answer a question put to her multiple times as to whether she performed Botox injections at Plateau Medical Clinic.
87. The Panel found many aspects of the Respondent’s evidence not to be credible. Her testimony was frequently inconsistent and not plausible. The Respondent’s testimony that she set up her business in the Plateau Medical Clinic, provided free consultations and was writing a book does not align with her testimony about her finances, the documentary evidence about her efforts to set up her medical

aesthetics business, and her communications to the College. The Respondent's testimony about having only walk in patients from the Plateau Medical Clinic (which does not offer aesthetics services) does not align with her testimony that she wanted to gather data about patients' interests in medical aesthetics. It is not plausible that the Respondent's business model was to provide free consultations. There was no documentary information in support of the Respondent having offered free consultations to clients. She did not have any records of her consultations with her walk-in clients at the Plateau Medical Clinic. The Respondent's testimony about her business was often vague. She was unable to provide any meaningful details about the book that she was writing despite assertions that some if not all of the 600 hours she reported to the College were devoted to this project. The Respondent's evidence is also contradicted by all of the other witnesses who testified and did so in more significant and specific detail. Having considered all of the evidence, and for the reasons outlined in this decision, where the Respondent's testimony differs from the other witnesses' evidence, the Panel prefers the evidence of those other witnesses.

88. The Respondent was hired by Kinetix in late January 2019. The Respondent has not worked in nursing since her employment ended at Kinetix in April 2019. She presently works as a notary public in Washington State. She also holds a real estate license.

Mr. Honardoust

89. Mr. Honardoust testified at the hearing regarding his qualifications and interactions with the Respondent. His testimony included the following:

- a. He is not a registrant with any health profession college in British Columbia and never has been.
- b. He did not tell the Respondent that he was a medical doctor. He did not recall whether he specifically told the Respondent that he was not a medical doctor. He felt that his qualifications are clearly stated on the website and in the BCAMA materials. The BCAMA textbook cover refers to "Dr. Dariush Honardoust, Ph.D" and the first page refers to him as "Dr. Dariush Honardoust". On the BCAMA certificate, Mr. Honardoust lists his credentials

as “Teaching Professor: BC Academy of Medical Aesthetics & Skin Care
Post-doctorate: Plastic Surgery Division. University of Alberta, Canada
Doctorate: Craniofacial I Dental SC, University of British Columbia, Canada
Director of the Canadian Association of Medical Spas and Aesthetic Surgeons.”

- c. The courses that he teaches at BCAMA are set up such that the mornings are devoted to theory and the afternoons involve practice on live humans.
 - d. After finishing the BCAMA course, the Respondent asked Mr. Honardoust whether she could work out of the BCAMA. The Respondent also asked Mr. Honardoust whether he could supervise her practice and prescribe for her. Mr. Honardoust testified that he declined the Respondent’s request and told the Respondent that he could not be her supervising doctor.
 - e. Mr. Honardoust encouraged the Respondent to seek her own medical supervisor who would be willing to offer supervision and direction as well as a room where she could offer her services.
 - f. Mr. Honardoust encouraged the Respondent to find a room to rent. The Respondent asked Mr. Honardoust what would be required in the room to offer services. Mr. Honardoust told the Respondent that there should be a medical doctor present in the building.
90. Mr. Honardoust also testified that he interacted with the Respondent after she secured a room at the Plateau Medical Clinic. Mr. Honardoust testified that the Respondent said that she had a room, she had some clients to offer the treatment, but she had no access to the products. Mr. Honardoust testified that the Respondent asked him for Botox, which he understood that she wanted to use on her clients. Mr. Honardoust asked the Respondent why she could not obtain the products from the clinic physicians. The Respondent told him, “there needs sometimes -- there would be a need sometimes that they -- she can establish her account with the colleges -- with the suppliers, considering that some doctors were going to accept her as a nurse injector and help her to get the products.”

91. Mr. Honardoust was not authorized to prescribe Botox in 2018 or 2019. Mr. Honardoust testified that the Botox used in the BCAMA courses was obtained from several different sources. Physician attendees are required to bring some product with them, and physician instructors supply some as well. The BCAMA also has a contingency supply. There were physicians who prescribed Botox for the BCAMA.
92. Mr. Honardoust testified about the Botox that he provided to the Respondent:

A She asked me for Botox.

Q Okay. And did you give it to her?

A Yes, I did. The Botox that I gave to her was already premade and preloaded in small syringes, so it was not like sealed or unopened vial that usually is a norm that people who are injecting should possess and start from the scratch to reconstitute their products in order to offer to the patients.

So what I did, I offered her some leftovers from the already premade or reconstituted Botox that I had in the fridge in a syringe, which was on two occasions I think. Pretty much sure it was -- I don't remember any more than like more than two times.

So the first time I offered her 25 units, which is equal to 0.25 cc or ml in small injectable syringes, and she took it and as a compensation I asked her for reimbursement of the money that I paid to buy those products.

Q Okay.

A So she paid --

Q Go ahead. Go ahead.

A Okay. And she paid and I gave her already that small syringe that had 25 units of Botox in a small ice bag, because it's very temperature-sensitive product.

So she left. I don't know exactly when she came back, but there was another occasion of giving her the second syringe which contained 30 units of Botox similarly from the leftover in the bottle that I already had in my fridge.

There was another request from the -- from Ms. Rahi that she needed more products, specifically the Botox. This time I remember that I advised her this is not a proper professional way to receive or to get the products. She need to be in contact with a physician to prescribe her the products from a supplier, because I'm not a supplier and I am not a person who sells the product.

So the second time she also reimbursed, she paid me for the 30 units of the Botox. And after the third time that she asked me for more products, I refused to offer more because I believe that this is not a very professional or a sanitized way to get the products in order to prevent contamination and also in order to prevent for the products to go bad while transporting. So she needs to find another way of securing the product for her practice.

Q Okay. So how much -- you've testified to two occasions, the first with 25 units, the second with 30. How much were you paid the first time with 25 units?

A Basically I asked for the amount that we – I bought the product for. It's \$5 per unit. So the first occasion was I believe 125 and the second occasion was \$150.

93. Mr. Honardoust testified that he was able to recall the volume so precisely because this is not something that he does in the ordinary course. It was an unusual situation that he was uncomfortable about. Mr. Honardoust testified that he felt that he could not say no. He wanted to help the Respondent establish her own practice, particularly as she was a young person from the same community as him. He felt she had a lot of hope and passion, and he had hoped to help her just enough to allow her to become independent. However, Mr. Honardoust felt uncomfortable and pressured by the situation.
94. On cross-examination, Mr. Honardoust elaborated that he did not view it as selling Botox to the Respondent. Rather, he was just seeking reimbursement for the amount he paid for the product. Later, he realized that the transaction amounted to buying and selling the product. Mr. Honardoust testified that he provided pre-loaded syringes to the Respondent. Mr. Honardoust testified that the Respondent told him that a doctor at the clinic where she had her office was prepared to supervise her. Based on that information, Mr. Honardoust was prepared to provide what he viewed as a small amount of product on two occasions.
95. In terms of timing, Mr. Honardoust testified that the Respondent asked to purchase Botox within weeks of finishing the BCAMA course.
96. The Respondent submits that Mr. Honardoust's testimony should be rejected. She argues that he should not be believed because his own actions at the BCAMA were unlawful. The Panel does not accept these arguments. First, it is not for this Panel to make a determination as to the lawfulness of Mr. Honardoust's conduct. Second, the Panel finds Mr. Honardoust to be a credible witness because he made statements against his own interests. This includes the evidence Mr. Honardoust provided in relation to questionable sources of the BCAMA's Botox and that he sold Botox to the Respondent. The Panel also finds his testimony to be credible because it was generally consistent and plausible. For example, in relation to being conflicted about wanting to assist the Respondent but also having reservations in doing so.

Plateau Medical Clinic

97. Plateau Medical Clinic is a family practice owned by two physicians, Dr. Daniel Kahwaji and Dr. Ashraf Saleeb. The clinic sees approximately 50 patients per day. Dr. Kahwaji and Dr. Saleeb alternate shifts at the clinic. Dr. Kahwaji and Dr. Saleeb were the only two physicians working at Plateau Medical Clinic in 2018 and 2019.
98. Dr. Kahwaji and Jody Howard, a medical office assistant at Plateau Medical Clinic, testified that Plateau Medical Clinic does not offer cosmetic injections and has never done so. Dr. Kahwaji testified that the clinic does not stock Botox. Dr. Kahwaji testified that he has never prescribed Botox or a derma filler and has never administered or supervised the administration of those products.
99. The Respondent testified that she approached the clinic in the fall of 2018. The clinic did happen to have a room available though was not advertising it for rent. It was being used as a storage room. Dr. Kahwaji testified about meeting with the Respondent during her unscheduled visit inquiring about the space. Dr. Kahwaji testified that he told the Respondent that Plateau Medical Clinic had no knowledge of or interest in medical aesthetics and that the Respondent needed to be allowed to provide her services independently, which she said was the case as long as she was in a medical setting.
100. Dr. Kahwaji testified that he discussed the matter with Dr. Saleeb, and they agreed that they would rent a room to the Respondent. They agreed that there would be no involvement in the Respondent's business and Plateau Medical Clinic's staff would not be involved either. It was strictly an agreement for rental of premises. Dr. Kahwaji testified that there was no written agreement, but the Respondent paid rent in the amount of \$2000 for the two months that she occupied the room at the clinic. Ms. Howard also testified that the relationship between the Respondent and Plateau Medical Clinic was a landlord tenant relationship. The Respondent took care of her own bookings and greeting her patients. The Respondent advertised her presence at the Plateau Medical Clinic's premises by October 29, 2018.
101. Ms. Howard testified about her observations of the Respondent setting up her space in the clinic. Ms. Howard testified that she observed the Respondent bring the

following items to her clinic room: a refrigerator, a sharps container, more than one box of syringes (which she was able to identify as such because it was the same brand that the clinic used), a chair for patients, and a chair for the Respondent.

102. Ms. Howard also testified that, shortly after renting the room at the Plateau Medical Clinic, the Respondent put up posters on the back of the doors of the physicians' examination rooms which advertised Botox and dermal fillers. The Respondent acknowledged putting up these posters at the beginning of her tenancy at Plateau Medical Clinic. Ms. Howard also testified that the Respondent placed business cards for "Nurse Rosha" at the reception desk in the clinic.
103. Both Ms. Howard and Dr. Kahwaji testified that they did not enter the Respondent's room in the clinic while she was a tenant.
104. Dr. Kahwaji and Ms. Howard testified that there was no coordination between the Respondent and the physicians regarding their schedules. Dr. Kahwaji testified that he was not involved in her business in any way and did not consult with her patients. He also did not refer patient to the Respondent.
105. Dr. Kahwaji testified that he did not observe the Respondent perform any injections. He did recall seeing one patient waiting for the Respondent.
106. Dr. Kahwaji testified that the Respondent asked him for assistance in acquiring Botox. The Respondent told him that she was getting her Botox from the doctor who trained her and that she could save money if she had a prescription. The Respondent proposed that Dr. Kahwaji write her prescriptions for Botox to save her money. Dr. Kahwaji declined that request. Dr. Kahwaji estimated that this discussion took place early on when she was at Plateau Medical Clinic.
107. During cross-examination, the Respondent asked Dr. Kahwaji about this conversation, emphasizing that her request related to supervision. Dr. Kahwaji rejected this proposition stating that the Respondent only asked him to provide a prescription.
108. Ms. Howard testified that she received inquiries about the Respondent's services from clinic patients. In those cases, she would tell them to take a business card and

go to the Respondent's website for more information. She recalled seeing patients take business cards on approximately three to four occasions.

109. Ms. Howard testified that when the Respondent's patients would arrive at the clinic, she would ask them to sit and then she would text the Respondent to notify her that her patient had arrived. Ms. Howard estimated the Respondent saw between two to four patients per day. Ms. Howard recalled seeing one particular patient on two occasions.
110. Ms. Howard did not observe patients bringing Botox into the Respondent's office. Ms. Howard testified that she had a conversation with the Respondent about how cosmetic injections worked and was left with the impression that the Respondent was injecting patients with Botox and/or dermal fillers while she was at Plateau Medical Clinic. Ms. Howard did not recall any discussion about where the Respondent acquired the Botox.
111. Ms. Howard testified that the Respondent told her that she was allowed to do Botox and dermal fillers and had been given permission by the College.
112. Ms. Howard testified that the Respondent never mentioned writing a book at Plateau Medical Clinic and did not state that she was only doing consultations.
113. The Panel found both Dr. Kahwaji and Ms. Howard to be credible witnesses. Dr. Kahwaji's evidence was clear and specific. He did not waver on cross-examination particularly with respect to the Respondent's request to acquire Botox. Ms. Howard provided detailed evidence and was forthright if she could not recall a certain point. Both witnesses gave evidence that was internally and externally consistent and plausible.

Kinetix

114. Jillian Fyvie testified at the Discipline Hearing. She is a Registered Nurse and the former Managing Director of Kinetix. Kinetix is a regenerative medicine facility that treats joint pain.
115. Ms. Fyvie testified that she managed hiring, termination and performance management at Kinetix.

116. The Respondent applied for a part time position as an LPN at Kinetix on January 7, 2019. In her application, the Respondent described her work experience at Plateau as “Medical Aesthetics, Licensed Practical Nurse, Plateau Medical Clinic” from “2018 to Present”. The Respondent listed her BCAMA certificates.
117. Ms. Fyvie testified that she is experienced in medical aesthetics and is currently an owner of a medical aesthetics business. Ms. Fyvie testified that she was not practicing medical aesthetics at Kinetix at the material times. Kinetix did not have a cosmetic injections practice. Ms. Fyvie wanted to focus on developing her managerial skillset.
118. Ms. Fyvie interviewed Ms. Rahi on January 10, 2019. She testified that they discussed medical aesthetics briefly in that interview because they had that interest in common. The word “aesthetics” appears in her interview notes. Ms. Fyvie’s understanding was that the Respondent rented space at Plateau Medical Clinic to provide medical aesthetics services.
119. The Respondent was hired at Kinetix on January 24, 2019.
120. Ms. Fyvie testified that, sometime in March 2019, she went out of town. When Ms. Fyvie returned, she learned that Dr. Sanjib Bhalla, a physician at Kinetix, and the Respondent had made arrangements for the Respondent to inject some of her own patients at Kinetix under his supervision as a contractor (separate from her employment relationship with Kinetix).
121. Ms. Fyvie testified that she was present on the day that the Respondent performed injections at Kinetix. She testified that the patients that came in were the Respondent’s patients and although she was not certain how many patients there were, she estimated it was three or four. Ms. Fyvie testified that she observed the Respondent injecting a dermal filler called Teosyal. Ms. Fyvie testified that she decided to observe Ms. Rahi perform some injections because she was curious about the Respondent’s skills and wanted to know if it was safe.
122. Ms. Fyvie testified that after observing the Respondent, she had serious concerns. She said that Dr. Bhalla did not share those concerns but was open to hearing Ms.

Fyvie's concerns. Ultimately it was agreed that the Respondent would not perform injections again.

123. Ms. Fyvie testified that she discussed the price per unit of Botox with the Respondent.
124. Ms. Fyvie testified that she observed the Respondent make notes that she took with her when she left.
125. The Respondent was dismissed from her employment with Kinetix on April 17, 2019.
126. The Respondent testified that Dr. Bhalla was training the Respondent instead of functioning as her ordering physician for a day.
127. The Respondent suggested that Ms. Fyvie's evidence should be given little weight because when the Respondent left Kinetix, Ms. Fyvie switched her position into medical aesthetics at Kinetix. The Panel accepts Ms. Fyvie did make that change but was not persuaded this affected Ms. Fyvie's evidence in any way. The Panel found Ms. Fyvie to be a credible witness. Her testimony was clear and detailed. She was forthcoming in her recollections and observations of her interactions with the Respondent. Where she was unsure or could not recollect a particular detail, she said so.

CPSBC

128. Kristin Pytlewski testified at the hearing. She worked as an investigator for the CPSBC from approximately 2011 to 2019.
129. Ms. Pytlewski testified that an online Groupon advertisement for Nurse Rosha at Plateau Medical Clinic came to the attention of the CPSBC on January 24, 2019. At that time, the CPSBC was active in the investigation of unauthorized Botox practice. Ms. Pytlewski testified that she often checked Groupon and other online sources for suspicious advertisements.
130. Ms. Pytlewski testified about the steps she took after she came across the Groupon advertisement. She printed the advertisement and preserved it. The printout of the Groupon advertisement was listed under "the medical procedures – Botox category" in Groupon. It referenced 20 to 40 units of "Wrinkle-Reducing Cosmetic Injectables

at Nurse Rosha for “up to 43% off”. The Respondent acknowledged on cross-examination that referenced Botox. It was available for purchase in the amount of 20 units for \$199 or 40 units for \$385. There were two “100% verified reviews” for individuals who redeemed deals with this merchant. The advertisements states “consultation required, non-candidates and other refund requests will be honoured before service provided.” Plateau Medical Clinic’s address is listed as the location. There is a promotional value that expires after 120 days.

131. The Groupon advertisement states the following regarding the Respondent:

Roshanak Rahi, otherwise known as Nurse Rosha, isn't just a licensed practical nurse or a certified aesthetician-she's also made it her life's mission to bring out the inner beauty inside each of her clients. Nurse Rosha specializes in dermal fillers, providing anti-aging solutions that last. Rosha uses these fillers to smooth away crow's feet, lift jaw lines, and plump up thin lips, making patients look younger after each treatment. Additionally, Nurse Rosha offers procedures that target her patients' specific skin problems, including facial contouring for males, Botox injections, vitamin therapy, and more.

132. The Groupon advertisement contained a review from a user named “Cynthia S” dated January 10, 2019. It stated “Nurse Rosha is extremely conscientious and meticulous. She took lots of time explaining options and listening. Highly recommend!”

133. On cross-examination, the Respondent could not recall whether anyone purchased from this Groupon advertisement. When confronted with her prior testimony that some people came from the BCAMA, the Respondent testified that they came for a consultation. The Respondent then testified that she took a deposit from “Cynthia S”, though the Respondent could not recall what the deposit was for. On cross-examination, the Respondent was evasive when asked to agree that the Groupon advertisement says nothing about only providing consultations.

134. Ms. Pytlewski testified that the Groupon advertisement caused her concern because an LPN is not permitted to provide injectable services on their own without a physician present. She was also concerned about the price for the product being too low.

135. Ms. Pytlewski testified that she performed additional online searches including viewing the website referenced in the Groupon advertisement (www.nurserosha.com). At the material times, the website stated that the Respondent's business was a "medical aesthetic business", it offered a free consultation and advertised dermal fillers, male contour, vitamin filler therapy and cosmetic Botox services, it discussed Teoxane or Teosyal dermal filler injections, it depicted injection therapy on the male contouring page, it provided the same contact phone number that the Respondent provided to the College for her contact information, it referenced a winter special for 30 units of Botox and face vitamin filler for \$1260, it contained a photo of the Respondent's room at Plateau Medical Clinic; it showed a photo of the Respondent wearing a stethoscope (as was also contained on her flyer), it contained links to an appointment page for "services" and referenced "Plateau Medical Clinic".
136. The Respondent agreed that she created the Nurse Rosha website. When asked to acknowledge that a printout from the website states, "home dermal fillers, male contour, vitamin filler therapy, and cosmetic Botox", the Respondent responded that the website also states, "have a free consultation". The Respondent testified that she was not indicating to the public that she was providing the listed services. Rather, she was only providing free consultations.
137. Ms. Pytlewski also took screenshots of the Nurse Rosha Facebook profile containing a profile picture and listing Nurse Rosha's business address as "Plateau Medical Clinic."
138. Ms. Pytlewski testified that she called the number in the Facebook advertisement which was the same number as in the Groupon advertisement on Sunday January 27, 2019. It was an "undercover" call. The purpose of the phone call was to clarify whether the Respondent was operating on her own or in conjunction with the physicians at the medical clinic. Ms. Pytlewski referred to the Groupon advertisement. Ms. Pytlewski said the address looked like a medical clinic and she inquired whether she would be seeing a physician. The Respondent said no. Ms. Pytlewski testified that she confirmed this point (that she would not be seeing a

physician) again to be sure. The Respondent again replied no. The Respondent made no reference to offering free consultations.

139. The Respondent cross-examined Ms. Pytlewski on her testimony of their telephone call. The Respondent asked whether Ms. Pytlewski agreed it was necessary to ensure that the Respondent could hear her properly and was not under the influence of any substances since it was a weekend. Ms. Pytlewski testified that it was early afternoon and that she followed up on her question twice.
140. The Respondent then asked Ms. Pytlewski how she could be so sure that the person she was speaking to was the Respondent and not someone else. The Respondent asked whether Ms. Pytlewski confirmed the Respondent's identity in the telephone call. Ms. Pytlewski responded that she referenced the Groupon's advertisement with the Respondent's name and face on it, and the Respondent's address.
141. The Panel did not find the Respondent's questioning of Ms. Pytlewski undermined Ms. Pytlewski's testimony in any way. There were no concessions about the Respondent's identity, about her ability to hear, or a possible impairment. Likewise, the Respondent did not later establish any of those points through other evidence.
142. The Panel finds Ms. Pytlewski's testimony to be credible. She was internally and externally consistent, and clear. She outlined her investigative process and the specific actions that she took on specific dates. Ms. Pytlewski's conduct is consistent with the records. Ms. Pytlewski's testimony is also consistent with events that are not in dispute, such as the fact that there were later communications between the CPSBC and the Respondent in relation to this same matter which the Respondent does not dispute occurred.
143. Ms. Pytlewski testified that she brought her concerns about Nurse Rosha to her supervisor, Etienne van Eck. Mr. van Eck testified at the Discipline Hearing. He is an experienced investigator and a former police officer in South Africa. He has experience prosecuting and deciding professional discipline cases involving police officers. He holds a law degree from the University of South Africa. He was the Executive Director and Deputy Registrar overseeing Inquiry, Discipline and

Monitoring with the BCCNM at the time of the Discipline Hearing. At the material times, however, he was the Director of Investigations at the CPSBC.

144. Ms. Pytlewski and Mr. van Eck testified about the steps taken by the CPSBC following Ms. Pytlewski's undercover call. On January 28, 2019, Ms. Pytlewski and Mr. Van Eck attended Plateau Medical Clinic. They identified themselves as CPSBC investigators and asked to speak with the medical director. They were then led to an exam room to wait. The Respondent was not present that day. They did not enter the Respondent's room at the Plateau Medical Clinic. Mr. van Eck testified that their purpose in attending Plateau Medical Clinic was to speak to its physicians, not to the Respondent.
145. Ms. Pytlewski and Mr. van Eck testified about the large poster for Nurse Rosha that was on the back of the treatment room door advertising Botox and filler treatments to be provided on a date (Mr. van Eck believed that date to be October 29).
146. Mr. van Eck, Ms. Pytlewski and Dr. Kahwaji testified about the conversation they had at Plateau Medical Clinic on January 28, 2019. Their testimony was consistent. They testified that Dr. Kahwaji advised the CPSBC investigators that the Respondent was only a tenant at the clinic and that the Plateau Medical Clinic physicians were not involved in her business.
147. Dr. Kahwaji testified that he approached the Respondent later that day about the CPSBC's visit. He told her the College rules prohibit her from performing Botox injections on her own. The Respondent assured Dr. Kahwaji that she had the College's agreement. Dr. Kahwaji asked the Respondent to provide a College letter to that effect in writing. She agreed but never provided such a letter.
148. Dr. Kahwaji testified that the next day there was "no trace" of the Respondent in the clinic. All of the posters had been removed. Ms. Howard also testified that the Respondent left suddenly after the CPSBC's visit and that the Respondent emptied her room completely. Her posters and business cards were removed.
149. Ms. Pytlewski and Mr. van Eck testified that they called the Respondent on January 29, 2019. Mr. van Eck called the telephone number listed on the Groupon

advertisement. They were on speakerphone and Ms. Pytlewski attended as an observer and notetaker.

150. Mr. van Eck testified that the focus of the call was to attempt to determine where the Respondent was acquiring her product. Mr. Van Eck testified that the CPSBC had encountered the use of fake Botox and expired product, which raised public safety issues.
151. Ms. Pytlewski testified that they identified themselves, that they were satisfied that it was the Respondent, and that she did not recall there being any language barriers.
152. Mr. van Eck testified that he had concerns that the Respondent was providing injectables with no physician involvement.
153. The Respondent told Ms. Pytlewski and Mr. van Eck that she got her product from Dariush Honardoust and that she had trained with him. Mr. Honardoust was known to the CPSBC for its own concerns regarding his conduct. The Respondent reported buying Teosyal for \$350 per vial and Botox for \$2.50 per unit. She stated that the last time she purchased that product was two weeks prior to the call. The Respondent stated that sometimes she would receive receipts from Mr. Honardoust.
154. The Respondent told Ms. Pytlewski and Mr. van Eck that she spoke with her College and that as long as she was part of a medical team in a clinic then she was permitted to perform injectables. Mr. van Eck asked the Respondent to tell the College who she was getting product from and what her business model was; specifically, that there was no physician involvement and that she was doing this on her own. He also told her to provide her Groupon advertisement and website to the College. Mr. van Eck also asked the Respondent to stop performing injections immediately. The Respondent agreed.
155. Ms. Pytlewski testified that the Respondent made no mention during this call of offering free consultations or writing a book.
156. The Respondent had a call with Ms. Sanchez following her telephone call with the CPSBC. Ms. Sanchez testified that she remembered this telephone call and specifically recalled the Respondent advising her that she had removed herself from

the aesthetics field. The Respondent was upset that she had paid for medical aesthetics training from someone she understood to be a physician who she discovered was not registered with the CPSBC. This is recorded in the CRM log.

157. Mr. van Eck testified that he emailed the Respondent later in the day of their call. He noted that the Respondent's Groupon advertisement, website and Facebook post had been taken down. Mr. van Eck confirmed that he had requested that the Respondent provide the College with the Groupon information as well as a link to her website. He also suggested that she forward Mr. van Eck's email to the College, so they have all his contact information. The Respondent had provided Ms. Sanchez with Mr. van Eck's contact information but did not forward his email. The Respondent replied to Mr. van Eck's email saying that she spoke to the College, that she started a new position, and that was she was leaving the field of medical aesthetics.

College Investigation

158. On May 6, 2019, Mr. van Eck submitted a complaint to the BCCNM regarding Ms. Rahi's activities at Plateau Medical Clinic. Mr. van Eck has had no involvement with this matter while at the BCCNM.
159. Gail Holotuk testified at the Discipline Hearing. She is a professional conduct review consultant at the BCCNM. Ms. Holotuk handled the investigation involving the Respondent at the College.
160. In terms of her background, Ms. Holotuk has been a full-time investigator with the College since 2014 and, before that, she was an investigator with the Independent Investigations Office. She was also a coroner in British Columbia for five years. Prior to this matter, she had handled several other investigations in medical aesthetics.
161. Ms. Holotuk testified that she called the Respondent on June 10, 2019. During that call, the Respondent stated that she was working with a doctor at Plateau Medical Clinic providing injections. Ms. Holotuk testified that the Respondent also admitted to performing injections at the BCAMA on models and three clients from her Groupon advertisement eleven months prior. The Respondent further admitted to performing injections on one day at Kinetix under Dr. Bhalla's supervision. Ms. Holotuk testified

that at no point did the Respondent deny performing injections at Plateau Medical Clinic.

162. Ms. Holotuk testified that the Respondent said that she had permission to perform everything she did from the College's practice advisors, and she had the emails to support this.
163. Ms. Holotuk testified that the Respondent told her that she would email documentation to clients, which included a treatment form, a waiver, a questionnaire, a pre-treatment information form, and posttreatment instructions.
164. Ms. Holotuk testified that the Respondent had her clients see their family physicians for an assessment before seeing her.
165. Ms. Holotuk testified that the Respondent did not mention anything about preparing a book during this call.
166. On June 11, 2019, Ms. Holotuk emailed the Respondent seeking information about who prescribed the orders for Botox and dermal fillers for her clients and where she acquired the products.
167. Ms. Holotuk called the Respondent on June 24, 2019. During that call, the Respondent told Ms. Holotuk that her lawyers informed her that the College had no business investigating her and that the matter should be thrown out. She denied providing injections and denied having the Nurse Rosha business. She expressed how upset she was with Mr. Honardoust and the BCAMA.
168. On July 1, 2019, the Respondent emailed Ms. Holotuk. Her email contains a general denial that she performed cosmetic injections at Plateau Medical Clinic.
169. Multiple further communications followed from Ms. Holotuk to the Respondent. The Respondent was reminded of her duty to cooperate with the College's investigation. On August 5, 2019, the Respondent provided a written letter to Ms. Holotuk, where, amongst other things, she suggests that the College has a special relationship with the BCAMA.
170. On August 20, 2019, Ms. Holotuk wrote again. In her letter, she set out a detailed chronology of her investigation and stated that the Respondent had, to date, failed

to adequately respond to her questions, including relating to the prescribing physician and source of the product. Ms. Holotuk provided a deadline of September 1, 2019. In her response of that date, the Respondent indicated that there was a misunderstanding by the CPSBC. She said that she told the CPSBC that she paid to have Botox done by Mr. Honardoust on her face and that she has never purchased any product. For the first time, the Respondent also stated that she rented space at the Plateau Medical Clinic in order to conduct research for a book on medical aesthetics.

171. On November 4, 2019, Ms. Holotuk wrote to the Respondent and asked for her new phone number, given that the number registered with the College was not in service. She also asked for an interview. Ms. Holotuk testified that no interview took place, and the Respondent did not provide her phone number.
172. The Panel found Ms. Holotuk to be a credible witness. Ms. Holotuk's evidence about her investigative steps and communications with the Respondent was clear and consistent. Her version of events was specific, neither under nor overstated, and aligns with the documents. Ms. Holotuk's evidence was also plausible and consistent with the College's other witnesses.

G. ANALYSIS

Allegation 1

1. In or about October 2018 to January 2019, you provided and/or offered to provide cosmetic injectables at the Plateau Medical Clinic in Coquitlam, British Columbia ("Plateau"), namely dermal fillers and/or Botulinum Toxin Type A ("Botox"), without the ordering health professional being immediately available contrary to section 7(2) of the *Nurses (Licensed Practical Regulation)*, B.C. Reg. 224/2015, *Scope of Practice for Licensed Practical Nurses* regarding Restricted Activities with Orders, and the following Practice Standards and/or Professional Standards for Licensed Practical Nurses ("LPNs"): *Responsibility and Accountability* Professional Standard and *Medication Administration* Practice Standard.

This conduct also constitutes non-compliance with a standard, limit or condition imposed under the Act, professional misconduct and/or unprofessional conduct, breach of the Act or bylaws, or incompetent practice under s. 39(1) of the Act.

173. The Panel finds that in October 2018, the Respondent secured a room at the Plateau Medical Clinic. The evidence at the hearing was undisputed that the Respondent's

arrangement with Plateau Medical Clinic was only with respect to tenancy and that there was no physician involvement. The Respondent left Plateau Medical Clinic at the end of January 2019.

174. The Panel finds that the Respondent's business was actively operating from the outset of her tenancy at the clinic. Specifically,

- a. The Respondent's flyer which she distributed to many physicians states that she had an already established clientele based on her practice.
- b. The Respondent's flyer shows that her Nurse Rosha website was already established before she found a business location.
- c. The Respondent hung posters at Plateau Medical Clinic which advertised cosmetic injections and referenced a "Botox & Dermal Filler Exclusive Offer" for October 29, 2018. The Respondent had business cards at the reception.
- d. The Respondent saw Plateau Medical Clinic patients during her time there, stating that she saw around 14 or 15 such people.
- e. The Respondent purchased Botox from Mr. Honardoust soon after completing her courses at the BCAMA on September 8 and 9, 2018 and after securing a business location. As per Mr. Honardoust's evidence, both she and Honardoust understood that the Botox had to be used immediately.

175. The Panel finds that the Respondent was offering to provide cosmetic injections of Botox and dermal fillers at Plateau Medical Clinic during the material period based upon the following evidence:

- a. The Respondent's Groupon advertisement which listed the units and prices for "Wrinkle-Reducing Cosmetic Injectables" which the Respondent testified on cross-examination was a reference to Botox. The advertisement stated, "Technician injects up to 40 units of cosmetic injectables, which can reduce the appearance of wrinkles". The advertisement listed Plateau Medical Clinic's address.

- b. The Nurse Rosha website advertised dermal fillers and Botox. It advertised a special of 30 units of Botox and “face vitamin filler” for \$1260. The website identified Plateau Medical Clinic on the appointment page.
 - c. The Nurse Rosha Facebook page advertised the Respondent’s business as operating at the Plateau Medical Clinic address. The page contains a picture stating there was a Botox and dermal filler exclusive offer in October 2018.
 - d. The posters hung at Plateau Medical Clinic advertised cosmetic injections and referenced a “Botox & Dermal Filler Exclusive Offer” for October 29.
 - e. During the undercover call by Ms. Pytlewski regarding the Groupon advertisement, the Respondent confirmed that the caller would only be seen by the Respondent.
176. The Panel finds that the advertisements are offers by the Respondent to provide cosmetic injectables; namely Botox and dermal filler injections, at the Plateau Medical Clinic during the material period.
177. The Panel finds that the evidence establishes that it is more likely than not that the Respondent not only offered to provide Botox and dermal filler injections at Plateau Medical Clinic, but also provided those services during the material period. This is based upon the following evidence:
- a. The Respondent equipped her room at Plateau Medical Clinic with items that are consistent with her providing Botox and dermal filler injections. Specifically, a refrigerator (which is required for Botox), more than one box of syringes, a sharps container, and a chair for patients.
 - b. The Respondent asked Dr. Kahwaji to prescribe Botox for her business. She told Dr. Kahwaji that she was getting Botox from the doctor who trained her, but she could save money if Dr. Kahwaji prescribed the Botox instead.
 - c. The Respondent purchased Botox from Mr. Honardoust on at least two occasions. The Botox had to be used immediately due to the short shelf life.

- d. The resume that the Respondent provided to Kinetix in January 2019 as part of her job application states that she was working in medical aesthetics at Plateau Medical Clinic as an LPN.
- e. The Respondent's Groupon advertisement states that "Nurse Rosha specializes in dermal fillers, providing anti-aging solutions that last. Rosha uses these fillers to smooth away crow's feet..."
- f. Ms. Pytlewski called the Respondent about her Nurse Rosha Groupon for the injection of 20 or 40 units of "cosmetic injectables" and was told by the Respondent that she would only see the Respondent and not a physician.
- g. The Respondent admitted to injecting at Plateau Medical Clinic during her January 29, 2019 call with Mr. van Eck and Ms. Pytlewski. The Panel does not find that there was any misunderstanding or miscommunication involved. Moreover, when Mr. van Eck asked the Respondent to stop performing injections, she did not deny injecting or otherwise comment in a manner that suggested she was not performing injections.
- h. During her June 10, 2019 call with Ms. Holotuk, the Respondent admitted to performing injections at Plateau Medical Clinic. She stated that she was performing injections with a physician. She further stated that she had a treatment form, a waiver, a questionnaire, a pre-treatment information form, and posttreatment instructions that she would email to the clients.
- i. Ms. Howard's evidence establishes that the Respondent was seeing patients at Plateau Medical Clinic. The Panel accepts Ms. Howard's evidence that the Respondent saw approximately two to four patients a day a couple of times a week.
- j. As of January 24, 2019, Ms. Rahi's Groupon advertisement had two "100% verified reviews" from people who purported to "have redeemed deals with this merchant."
- k. The Respondent had returning clients visit her at Kinetix. One of those clients saw the Respondent for dermal filler injection. The Respondent had

a discussion with Ms. Fyvie regarding not charging tax for Botox if the client paid in cash.

- l. The Respondent did not provide any records for her activities at Plateau Medical Clinic including notes or documentation of any consultations.
 - m. The Respondent told Mr. van Eck in their January 29, 2019 call that she purchased Botox on an as-needed basis.
 - n. The Respondent told Ms. Pytlewski in their January 29, 2019 call that she had most recently purchased product a couple of weeks prior to their call.
 - o. In her annual renewal documents with the College, the Respondent self-reported that she worked 600 practice hours in 2018. She indicated that those were nursing hours. There is no reference to research or consulting hours, which are also options to select in that section of the College form. The Respondent certified that information to be true and complete and to the best of her knowledge.
 - p. The Respondent admitted during cross-examination that she took a deposit from "Cynthia S", the Groupon customer who left a positive review on her Groupon advertisement.
 - q. The Respondent's Groupon advertisement was available for purchase. The content of that advertisement is inconsistent with the Respondent's assertion that she was only providing free consultations.
178. It is not necessary for this Panel to determine how many times the Respondent performed cosmetic injections during the material period. For the purposes of this allegation, it is sufficient for the Panel to find that the Respondent performed cosmetic injections on at least two occasions based upon the product that she obtained from Mr. Honardoust and the additional evidence set out above.
179. The College invites the Panel to make findings as to other possible sources of the Respondent's product, including that she asked Dr. Kahwaji or identified another source, in order to conclude that the Respondent had an active and ongoing unauthorized Botox administration business at Plateau. The Panel declines to make

those findings. It is not necessary for the purposes of the allegation. The College has proved this allegation on a balance of probabilities based upon the other overwhelming evidence outlined above that is clear, cogent, and convincing.

180. The Panel does not accept the Respondent's assertions that she was providing only free consultation services during her time at Plateau Medical Clinic. As noted above, the Respondent's own advertisements for paid products and services are inconsistent with this argument. These advertisements included specials and time limited offers. It is also not plausible that the Respondent sought to set up a business practice in which she would only offer free consultations. She testified about the expenses associated with her training and premises rent and it is not plausible that her business would not have entailed generating revenue.
181. The Respondent submits that there is "no proof" that she injected anyone because no one observed her do that. She also submits that there is "no proof" of her having purchased Botox or dermal filler. The Panel does not accept these arguments. It is not necessary that there was a direct witness to the cosmetic injections in order for the College to prove this allegation on a balance of probabilities. The Panel does not accept that there was no evidence of the Respondent's purchase of Botox. To the contrary, there was clear and convincing evidence of that purchase.
182. The Panel does not accept the Respondent's assertion that she was conducting research at Plateau Medical Clinic to write a book. The Respondent's assertion of writing a book arose late in her communications with the College. As noted above, the Respondent did not provide any details or evidence – whether documentary or through testimony – that support the assertion that she spent her time conducting research for a book. There were no client records of the Respondent's consultations that would form the basis of her research for her book. The Respondent's testimony was vague regarding the most basic details such as the topic of the book.
183. The Respondent's assertion that she was researching for a book is also inconsistent with the other evidence from that period which is outlined above. For example, there is nothing contained in the advertisements regarding this research, and the physical items that the Respondent moved into her clinic room are not consistent with

research. It is not plausible that the Respondent conducted research concerning the reasons why people are interested in medical aesthetic treatments.

184. The Panel finds that the Respondent's conduct is contrary to section 7(2) of the LPN Regulation, the LPN Scope of Practice regarding Restricted Activities with Orders, and the following Practice Standards and/or Professional Standards for Licensed Practical Nurses ("LPNs"): *Responsibility and Accountability* Professional Standard and *Medication Administration* Practice Standard, as alleged in the Citation.
185. Section 7(1)(h) and 7(2)(b) of the LPN Regulation state that an LPN cannot administer a prescription-only substance by any method unless they are doing so "for the purpose of implementing an order" by an authorized health professional.
186. Section 7(1)(c) and 7(2)(b) of the LPN Regulation state that an LPN cannot administer a substance by injection unless they are doing so "for the purpose of implementing an order" by an authorized health professional.
187. The LPN Scope of Practice mandates that an LPN may administer dermal filler and/or Botox for aesthetic purposes only when the ordering health professional is immediately available.
188. The Respondent argues that Ms. Howard confirmed in her testimony that there were always physicians in the Plateau Medical Clinic office during the times that the Respondent was present in the clinic. This does not assist the Respondent. The presence of physicians in the same office as the Respondent does not meet the prescribed requirements. The health professional who ordered the product must be present, and they must also be immediately available. Those requirements were not met in this case.
189. The *Responsibility and Accountability* Professional Standard states that an LPN's professional obligations of responsibility and accountability require them to practice "within [their] own level of competence, employer policies, the LPN scope of practice and all relevant legislation."
190. The *Medication Administration* Practice Standard provides that the administration of medication must be done in compliance with the LPN Regulation, the College

standards, and the individual nurse's competence. It also requires caution when dealing with neuromuscular blocking agents.

191. The College has proved this allegation on a balance of probabilities.
192. The Panel has determined that the Respondent's conduct constitutes professional misconduct as it is conduct which would be reasonably regarded as disgraceful, dishonorable, or unbecoming of a member of the profession, and is a marked departure from the standard expected of the profession.
193. The College relies upon *Complainant v. British Columbia College of Nursing Professionals (No. 1)*, 2020 BCHPRB 74 which emphasizes the importance of a professional practicing within their scope of practice. In that case, the tribunal held:

[85] As evident from a review of the Act, the Regulations and the College's own Standards, the administration of medication in nursing practice is carefully regulated. To begin with, the distinctions drawn between the different professions and the scope of practice assigned to each profession are fundamental to the entire scheme, such that it would be a very serious matter for a nurse to encroach of the scope of practice that only a physician may exercise: Act, s.19(1)(k). This is especially so in the area of medication administration, which has been carefully and comprehensively addressed in the *Nurses (Registered) and Nurse (Practitioner) Regulation*, B.C. Reg. 284/2008 and the *Drug Schedules Regulation* issued under the *Pharmacy Operations and Drug Scheduling Act*. Sections 6(1)(k) and 7(1)(f), (2) and (3) of the former Regulation make clear that a nurse may administer Toradol (Ketorolac, a Schedule I drug) without an order only in very limited circumstances; otherwise it is a "restricted activity." All this is reinforced in the College's own Practice Standard entitled *Medication Administration*, which states in item 1 that "Nurses are responsible for administering medications within their scope of practice." Item 4 of the same Standard even limits when a nurse who has a verbal order may administer medication: "Nurses act upon verbal and telephone orders only when circumstances require doing so and if there are no other reasonable options." All this is clear evidence of the importance placed by the government and the College Board, in the public interest, on ensuring that nurses remain within their scope of practice as it pertains to medication administration. And as noted, the allegation (which must be taken at this step as admitted proven) was not even that the Registrant had a verbal order. It was that there was no order.

[86] Having regard to the College's overarching duty to protect the public (Act, s. 16) it is difficult to imagine a professional standard more central to nursing practice than the standard governing the administration of medication with a doctor's order. The care and detail shown by the Act, bylaws, regulations and standards in this area clearly reflect the public interest concerns that would arise if a nurse, including an ER nurse, took it upon herself to operate as a free agent administering Toradol medication in the absence of a verbal or written order from

a physician. Such conduct is by itself acting markedly outside one's scope of practice as a nurse as it is effectively acting as an unlicensed physician. For the Registrar to add the adjective of "extreme negligence" before finding that such conduct would ordinarily lead to licensing action is unreasonable. Even a single incident of engaging in such conduct if admitted or proven at a discipline hearing must cause any reasonable nursing college concerned for the public interest to view such conduct with the utmost seriousness as reflected in some sort of licensing action as recognized in ss. 39(2)(b)-(3) of the Act. Anything less would make the license itself meaningless.^[1] The subject of medication administration is carefully regulated precisely because of the "foreseeable harm" that such conduct is seen to present both in fact and as a matter of public protection generally. It is not the Registrar's role to substitute her view of foreseeable harm for that of the authorities who created the Regulations and the Standards.

194. The College submits that the Respondent not only exceeded her scope of practice, but she structured her business outside of her scope of practice. The Panel accepts that submission.

195. The Panel finds that the Respondent knew that what she was doing was unauthorized. This is evidenced by, among other things,

- a. The Respondent's September 12, 2018 communication to the College which identifies her understanding that one of her options is to rent a space in a medical clinic where a physician would have direct supervision, and the College's response directing the Respondent to section 20 of the LPN Scope of Practice which requires an order from an authorized health professional.
- b. The Respondent acknowledged that it is her responsibility to ensure that she was operating within her scope of practice and that she understood her scope of practice.
- c. The Respondent acknowledged that she sent out the flyer to 200 physicians searching for a partner in medical aesthetics because she knew that she had to work alongside a health professional who could prescribe the substances she identified in her flyer.
- d. After finishing the BCAMA course, the Respondent asked Mr. Honardoust whether she could work out of the BCAMA. The Respondent also asked Mr. Honardoust whether he could supervise her practice and prescribe for her.

- e. The Respondent asked Dr. Kahwaji if he would prescribe product.
 - f. The Respondent's email to the College on November 18, 2018 regarding her business registration identifies the purpose of running her medical aesthetics business "inside an existing Medical Clinic under direct supervision of physicians."
 - g. When the Respondent was given permission for the use of title on December 6, 2018, the consent letter states that the College's consent is contingent upon the Respondent only providing nursing services within the authorized scope of practice for LPNs. The Respondent was encouraged to access and review specific resources in that regard.
196. The College submits that the evidence establishes when the Respondent was not able to find the necessary direct supervision she proceeded regardless. The Panel agrees. The Respondent did take steps to try to locate an arrangement that may have been in line with the applicable requirements. It is an aggravating factor that the Respondent decided to proceed with an arrangement that was contrary to the requirements of her scope of practice. Moreover, it is concerning that she told Dr. Kahwaji that she could provide cosmetic injections on her own, as long as she was in a medical setting, and Mr. Honardoust that she had secured physician supervision at a medical clinic and that the physicians were going to help her get product. The Respondent knew that she needed direct supervision, and an ordering physician and that she did not have either of those.
197. The College submits that a further aggravating factor in this case is the dangerous nature of the conduct. The Panel accepts this argument. As mentioned above, Botox is a Schedule I Drug under the Drug Regulation; and Botox and dermal fillers for cosmetic purposes are restricted by the College's LPN Scope of Practice. These restrictions are indicative of the need for particular public protection in these areas.
198. The Respondent herself was aware of the potential dangers associated with these products, when she testified (in relation to Mr. Honardoust not being a physician) that:

... He's not a doctor. And he's injecting people. Do you know how many consequences is involved in injection? Do you know people can get killed? Do you know how fatal it can be?

Can you imagine what are the public and society are -- can happen to them? Do you see the danger out there? Do you think it's just about this case?

No. It's a lot more involved. It's a lot of danger going on giving all these people injection into the face. It could have killed me and my father and my brother.

199. The College submits that by promoting herself in her advertising materials with her nursing license, a photograph of herself wearing a stethoscope, and setting up her business at an established medical clinic where physicians work, she capitalized on the trust between Plateau Medical Clinic and its patients. The Panel agrees that the dangers of the Respondent's conduct may have been further aggravated by the sense of legitimacy that the Respondent's business structure could have conveyed.

Allegation 2

2. In or about October 2018 to January 2019, you acquired Botox from Dariush Honardoust and/or the BC Academy of Medical Aesthetics & Skin Care by means that you knew or ought to have known were not in compliance with section 2 of British Columbia's *Drug Schedules Regulation*, BC Reg 9/98.

This conduct constitutes professional misconduct and/or unprofessional conduct, breach of the Act or bylaws, or incompetent practice under s. 39(1) of the Act.

200. The Panel finds that the relevant time period in this allegation is also well established in the evidence. The Respondent completed her courses at the BCAMA on September 9, 2018. As noted above, the Panel accepts Mr. Honardoust's testimony that the Respondent asked him whether she could operate out of the BCAMA within weeks of finishing her coursework, which he declined. The Panel also accepts Mr. Honardoust's evidence that the Respondent returned to him again within weeks thereafter telling him that she had secured a room in a building with two physicians. It was during that conversation that the Respondent asked Mr. Honardoust if she could acquire Botox from him.

201. As also noted above, the Panel accepts Dr. Kahwaji's testimony that the Respondent told him that she was getting Botox from the doctor she trained with but that she was hoping Dr. Kahwaji would prescribe the product instead.

202. The Panel finds that the evidence establishes to the requisite standard that the conduct in this allegation took place on or about October to November 2018, which was at the beginning of her tenancy at Plateau Medical Clinic.

203. The Panel finds that the evidence also establishes that the Respondent acquired Botox from Mr. Honardoust and/or the BC Academy of Medical Aesthetics & Skin Care for the following reasons:

- a. Mr. Honardoust testified that the Respondent asked him for Botox, and he gave it to her on two occasions (25 units the first time and 30 units the second time) in preloaded syringes, and she reimbursed him.
- b. The Respondent admitted to the College and Dr. Kahwaji that she purchased her Botox from Mr. Honardoust. During her call with the CPSBC, she provided details in that regard including the price, frequency, and the fact that she would sometimes get receipts.
- c. The Respondent's testimony that she took a deposit from "Cynthia S." and that Mr. Honardoust was going to come to Plateau Medical Clinic and perform injections (which the Panel does not accept), indicates that the Respondent acknowledges the existence of some level of business relationship with Mr. Honardoust after completion of her coursework at the BCAMA.
- d. The Respondent told "Cynthia S" that the product she was accessing "wasn't safe".
- e. Ms. Fyvie testified that the Respondent brought in her own clients to Kinetic and charged her client \$8 for Botox on the basis of what she had previously charged that same client for the same service (which would have been while she was at Plateau Medical Clinic).
- f. The Respondent's Groupon advertisements reference selling units of Botox.

204. The Panel finds that the Respondent's conduct was done by means that the Respondent knew or ought to have known were not in compliance with section 2 of the Drug Schedules Regulation.
205. The Drug Schedules Regulation was enacted pursuant to *Pharmacy Operations and Drug Scheduling Act*, SBC 2003 c.77 ("PODSA"). The Drug Schedules Regulation lists Botox as a Schedule I drug. Schedule I drugs must be sold from licensed pharmacies. Schedule I drugs require a prescription for sale and are provided to the public by a pharmacist following the diagnosis and professional intervention of a practitioner.
206. A "practitioner" in the Drug Schedules Regulation is a defined term from PODSA, which provides:

"practitioner" means a person

(a) who is authorized to practise medicine, dentistry, podiatry or veterinary medicine, or

(b) who is

(i) in a class of persons prescribed by the minister for the purpose of this definition, and

(ii) authorized under the *Health Professions Act* to prescribe drugs or devices in the course of providing the services of a designated health profession as defined in section 1 of that Act;

207. Mr. Honardoust is not a practitioner as defined above. He is not authorized to prescribe or sell Botox. Mr. Honardoust is not a member of any regulated profession.
208. The Respondent breached the Drug Schedules Regulation by purchasing Botox from Mr. Honardoust. She purchased a prescription-only substance without a prescription and from someone who is not a pharmacist.
209. The Respondent knew or ought to have known her conduct was not in compliance because she was professionally obligated to know her scope of practice and the legislation and regulatory framework that applies to her practice. The Respondent admitted during her testimony that she was aware of the need to operate within her scope of practice. The College's Professional Standards for LPNs requires an LPN to work within their own level competence, employer policies and the LPN scope of practice and all relevant legislation.

210. The Panel further finds it more likely than not that the Respondent did know that her conduct was unlawful. The Respondent knew she could not simply purchase Botox but required a prescription because she asked Dr. Kahwaji to prescribe for her practice.
211. The Panel finds that the College has proved this allegation on a balance of probabilities.
212. The Panel has determined that the Respondent's conduct constitutes professional misconduct as it would reasonably be regarded as disgraceful, dishonourable or unbecoming of a well-respected member of the profession and is a marked departure from the expected standard. Not only was the Respondent's conduct contrary to the Drug Schedules Regulation, but she also purchased Botox without any physician involvement, without personal experience and in a medical clinic that had no knowledge or experience relating to Botox administration. The Respondent acquired Botox from Mr. Honardoust in preloaded syringes in a bag of ice which raises concerns around the proper preparation and handling of medications. The Medication Administration Practice Standard for LPNs requires the preparation of medication in as close proximity to patients as possible. In addition, LPNs are to be particularly aware of medications that may cause serious injury or death if not used correctly. This includes neuromuscular blocking agents. Botox is a dangerous drug which calls for engaged caution in handling. In addition, it would not have been apparent to members of the public that the Respondent had acquired or handled Botox in the manner in which she did.

Allegation 3

3. Beginning on or about August 5, 2019 and July 17, 2020, you made false statements to BCCNM investigators in relation to their investigation of the complaint against you made by the British Columbia College of Physicians and Surgeons on May 6, 2019 (the "Complaint") to the effect that you did not purchase or receive Botox from the British Columbia Academy of Medical Aesthetics & Skin Care or Dariush Honardoust.

This conduct is contrary to the Responsibility and Accountability Professional Standard for LPNs and BCCNP Bylaw 338.

It also constitutes professional misconduct and/or unprofessional conduct, and/or breach of the Act or bylaws, or incompetent practice under s. 39(1) of the Act.

213. The Panel finds it more likely than not that the Respondent told Mr. van Eck, Ms. Pytlewski and Dr. Kahwaji that she purchased Botox from Mr. Honardoust.
214. The Panel also finds that by letter dated June 10, 2019, the College's investigator, Ms. Holotuk, asked the Respondent for information regarding who prescribed the order for Botox and dermal fillers for the Respondent's clients, and where the Respondent obtained the dermal filler and Botox products.
215. The Panel finds that on September 1, 2019, the Respondent emailed Ms. Holotuk a written response stating that the CPSBC had misunderstood her and that she had never purchased Botox from Mr. Honardoust:

Regarding January 29, 2019, it is a misunderstanding and misinterpretation by CPSBC. I told them that for learning purposes in BC Academy of medical aesthetics and skin care class I have paid to get a Botox treatment done by Dr. Dariush Honardoust who injected to my face (I was his patient and I paid for my treatment) in his class for learning purpose of me and other students in that class. I told CPSBC I paid him for my treatment. I have never ever purchased any product. I also called College of Nursing the same day as I received a call from CPSBC as a duty to report.

216. The Respondent maintained that she did not purchase Botox from Mr. Honardoust. On July 15, 2020, Ms. Holotuk sent a summary of the College's interview with Mr. Honardoust to the Respondent. In a written response to Ms. Holotuk dated July 17, 2020, the Respondent stated, "Mr. Dariush Honardoust he himself injected two syringes of Botox on my face as a model. I did not receive any left-over Botox from his class and my mate is bear witness to it that we did not receive any left over products."
217. During cross-examination, the Respondent gave the following testimony confirming that she told Ms. Holotuk she never purchased Botox or dermal fillers from Mr. Honardoust:

Q Ms. Rahi, do you recall your evidence that you did not buy Botox from Dariush Honardoust?

A I have never purchased nor there is any evidence that I have purchased any medication from Mr. Honardoust or any other place.

[...]

Q Okay. So do you agree with me that you told Gail Holotuk that you never purchased Botox from Dariush Honardoust?

A That's right.

Q Okay. And you told her that you never purchased dermal fillers from Dariush Honardoust?

A That's right.

218. The College submits that if it was successful in proving allegation 2 of the Citation, it has established that the statements at issue in allegation 3 were false. The Panel agrees. The Panel finds that the Respondent made false statements to BCCNM investigators during the material times to the effect that she did not purchase or receive Botox from the British Columbia Academy of Medical Aesthetics & Skin Care or Dariush Honardoust.
219. The Panel finds that this conduct is contrary to the Responsibility and Accountability Professional Standard for LPNs and section 338 of the College's Bylaws at the material times. The Responsibility and Accountability Professional Standard provides that an LPN's professional obligations of responsibility and accountability require them to practice within their scope of practice and be accountable and responsible for their own nursing decisions, actions and professional conduct. In making false statements to her regulator, the Respondent was not accountable and responsible.
220. Section 338 of the Bylaws imposes a duty on a registrant who is subject to a complaint to co-operate fully in a BCCNM investigation. In making false statements to the College's investigator, the Respondent did not fully cooperate with the College investigation.
221. The Panel finds that the College has proved this allegation to the requisite standard.
222. The Panel has determined that the Respondent's conduct constitutes professional misconduct as it would reasonably be regarded as disgraceful, dishonourable or unbecoming of a well-respected member of the profession and is a marked departure from the expected standard.

223. The College submits that the importance of a registrant's duty to cooperate is well articulated in *James v. Real Estate Council of Alberta*, 2004 ABQB 860:

[37] Crucial to its ability to regulate is its ability to rely on the co-operation of its members in any investigation of behaviour alleged to be contrary to the rules and code. That co-operation must be provided in all cases, regardless of the view the investigated member has of the merits of the complaint. Needless to say, if his or her view of the merits is right, the complaint will be dismissed, but that is not for the member to decide, nor is it to constitute a reason for the member not to co-operate.

224. The Panel agrees with the reasoning above and notes that many health profession regulators in British Columbia have also underlined the importance of registrants' cooperation in investigations as a critical feature of self-governing professions. Cases involving failure to cooperate have involved determinations of unprofessional conduct and professional misconduct (see *College of Massage Therapists of British Columbia v. Gill*, 2019 CMTBC 01; *College of Massage Therapists of British Columbia v. Krekic* (August 5, 2022)).

225. A registrant's failure to cooperate will be characterized as "professional misconduct" rather than "unprofessional conduct" where it is of a more serious or egregious nature (*College of Dental Surgeons of British Columbia re: Kaburda*, 2014 CanLII 96656 and *Millar v. College of Physicians and Surgeons of British Columbia*, [1994] BCJ No. 967, decisions that were quoted in *Re Krekic*)

226. The Panel finds that, in this case, the Respondent's failure to cooperate is on the more serious and egregious end of the spectrum for the following reasons:

- a. The Respondent made false statements to the College.
- b. The false statements were in relation to dangerous conduct.
- c. The Respondent's false statements were part of the Respondent's general lack of respect for and resistance to the College's investigation into the matters it was required to investigate, which was demonstrated by the following:

- i. The Respondent told Ms. Holotuk during a phone call on June 24, 2019 that the College has no business investigating her, and the matter should be thrown out;
- ii. In her August 5, 2019 letter to the College, the Respondent said that the investigation was creating mistrust of the College and accused the College of having a special relationship with the BCAMA;
- iii. The Respondent told Ms. Holotuk that she had all of the charting in relation to cosmetic injections which included a treatment form, a waiver, a questionnaire, pre-treatment information and posttreatment instructions that she would email to clients. Ms. Holotuk requested blank copies of those documents. They were never provided by the Respondent; and
- iv. The Respondent was resistant to scheduling an interview and updating her contact information which caused delay in the investigation of this matter.

227. Accordingly, the Panel has determined that the Respondent's conduct warrants a determination of professional misconduct.

Allegation 4

4. Between in or about October 2018 and January 2019, you told a representative of the College of Physicians and Surgeons of British Columbia and/or members of the Plateau Medical Clinic, expressly or by implication, that one or more of the activities particularized in paragraph 1 herein were "approved" by BCCNM and/or were within your authorized scope of practice as an LPN when you knew or should have known that this was untrue, contrary to the Responsibility and Accountability Professional Standard for LPNs and/or the Ethical Practice Professional Standard for LPNs.

This conduct also constitutes professional misconduct and/or unprofessional conduct, breach of the Act or bylaws, or incompetent practice under s. 39(1) of the Act.

228. The Panel finds it more likely than not that during the January 29, 2019 telephone call, the Respondent told Ms. Pytlewski and Mr. van Eck from the CPSBC that her activities at Plateau Medical Clinic were approved by the College. On cross-

examination, the Respondent testified that she did not recall making such statements. She then denied making the statements altogether. The Panel prefers the evidence of Ms. Pytlewski and Mr. van Eck which was specific, clear and consistent.

229. The Panel also accepts Ms. Pytlewski's testimony that during the telephone call, the Respondent said that she had spoken with her College and that as long as she was part of a medical team in a clinic then she could preform injectables. In cross-examination of Ms. Pytlewski, Ms. Rahi confirmed this evidence. This evidence is consistent with notes that Ms. Pytlewski took during the telephone conversation.
230. The Panel also accepts Dr. Kahwaji's testimony that during their first conversation, the Respondent said she could provide cosmetic injections on her own as long as she was in a medical setting. The Panel accepts Dr. Kahwaji's testimony that after the CPSBC's visit he confronted the Respondent regarding this issue, and she assured him that she had her College's agreement. While the Respondent did not testify to making those statements to Dr. Kahwaji, she did testify that she told him that she had communicated with the College about all of the steps that she took in her nursing career. Where the Respondent and Dr. Kahwaji's testimony differs, the Panel prefers the more specific, clear and consistent account of Dr. Kahwaji.
231. The Panel accepts Ms. Howard testimony that the Respondent told her that she was allowed to do Botox and dermal fillers and had been given permission by the College.
232. The College submits that the evidence of Ms. Pytlewski, Mr. van Eck and Dr. Kahwaji is consistent with the Respondent's testimony throughout the Discipline Hearing that everything she did was approved by the College and within her scope of practice. The Panel accepts this argument. During her direct testimony, the Respondent gave the following evidence:

I have nothing to be blamed for. And any step I have taken in my career was all based on communications and information that I obtained from college of nursing to ensure that my actions are in line with nursing scope of practice, standards, and professional practice.

233. The Panel finds this testimony is consistent with the testimony of the College's witnesses as well as the documentary evidence set out above.
234. The Panel finds that the Respondent knew that her statements to the CPSBC and Plateau Medical Clinic members were untrue because at the material times she was operating her business without the necessary physician involvement which was not approved by the College.
235. As set out earlier in this decision, the Respondent knew in the fall of 2018 that she needed to have physician supervision to perform cosmetic injections. The Panel finds that the Respondent therefore also knew that the absence of physician supervision at the material times was not within her scope of practice and was not approved by the College. Accordingly, the Panel finds that the Respondent knew or should have known that her assertions that the College approved of her business activities and that she was practising within her scope of practice as an LPN were untrue.
236. The Panel finds that this conduct is contrary to the Responsibility and Accountability Professional Standard for LPNs and the Ethical Practice Professional Standard for LPNs.
237. The Responsibility and Accountability Professional Standard provides that an LPN's professional obligations of responsibility and accountability require them to practice within their scope of practice and be accountable and responsible for their own nursing decisions, actions and professional conduct. The Respondent was not accountable for her own actions by falsely stating to Dr. Kahwaji, Ms. Howard, and the CPSBC that her actions were approved by the College and within her scope of practice.
238. The Ethical Practice Professional Standard requires LPNs to understand, uphold and promote the ethical standards of the nursing profession, by demonstrating honesty and integrity at all times. The Respondent failed to demonstrate honesty and integrity through her proven conduct above.
239. The College has proved this allegation to the requisite standard.

240. The Panel has determined that the Respondent's conduct constitutes professional misconduct as it would reasonably be regarded as disgraceful, dishonourable or unbecoming of a well-respected member of the profession and is a marked departed from the expected standard.

241. The Respondent not only knew or should have known that she was operating outside of her scope of practice, but she was also engaged in a dangerous activity and told registrants and staff from another health profession college that her activities were within her scope of practice and approved by her own College. The relationships between registrants and staff of other health profession colleges are important to the functioning of all regulated health professions. The Panel finds that this is serious conduct.

H. ORDER

242. The Panel finds that the College has proved all of the allegations in the Citation to the requisite standard.

243. Pursuant to section 39(1) of the HPA, the Panel has determined that the Respondent

- a. Has committed professional misconduct in relation to the allegation at paragraph 1 of the Citation;
- b. Has committed professional misconduct in relation to the allegation at paragraph 2 of the Citation;
- c. Has committed professional misconduct in relation to the allegation at paragraph 3 of the Citation; and
- d. Has committed professional misconduct in relation to the allegation at paragraph 4 of the Citation.

Schedule for Submissions on Penalty and Costs

244. The Panel directs that the parties provide written submissions regarding the appropriate penalty and costs.

245. The Panel directs that the parties provide the written submissions in accordance with the following schedule, or as otherwise directed by the Panel:

- a. Submissions must be delivered by counsel for the College to the Respondent and the Panel by no later than April 5, 2024;
- b. Submissions must be delivered by the Respondent to counsel for the College and the Panel by no later than April 26, 2024; and
- c. Reply submissions may be delivered by counsel for the College to the Respondent and the Panel by no later than May 3, 2024.

Delivery and Public Notification

246. The written submissions can be delivered by email to the Panel's legal counsel.

247. The Panel reminds the College of the requirements in section 39(3)(c) of the HPA.

248. The Panel directs that pursuant to sections 39.3(1)(d) of the Act, the Registrar notify the public of the determination made herein. The College may return to the Panel for further direction as to implementation if required.

Notice of Right to Appeal

249. The Respondent is advised that under section 40(1) of the Act, a respondent aggrieved or adversely affected by an order of the Discipline Committee under section 39 of the Act may appeal the decision to the Supreme Court. Under section 40(2), an appeal must be commenced within 30 days after the date on which this order is delivered.

Dated: March 14, 2024

Sheila Cessford, Chair

Samantha Love, LPN

Hannah Varto, MN, NP(F), SANE-A