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

BETWEEN:

The British Columbia College of Nursing Professionals

(the "College" or "BCCNP")

AND:

Shannon Whieldon

(the "Respondent")

DETERMINATION OF THE DISCIPLINE COMMITTEE
(Penalty and Costs)

Hearing Dates:	In writing
Discipline Committee Panel:	Sheila Cessford, Chair Edna McLellan Dr. Thomas Ward
Counsel for the College:	Jennifer Groenewold and Jessica Abells
Counsel for the Respondent:	Preston Parsons

Introduction

1. A panel of the Discipline Committee (the "Panel") of the British Columbia College of Nursing Professionals (the "College" or "BCCNP") conducted a hearing from May 22 to June 1, 2019 to determine, pursuant to section 39 of the *Health Professions Act* RSBC 1996 c.183 (the "Act" or the "HPA"), whether the Respondent, Shannon Whieldon, failed to comply with the Act, failed to comply with a standard imposed under the Act, and/or committed professional misconduct or unprofessional conduct.

2. The Panel issued a written determination on September 11, 2019 (the "Verdict Decision") in which the Panel found that allegations 1(a)(i)(ii)(iv), (c), (d), (f), (g)(i)(ii), (h)(i)(iii), and (j) of the Citation were proven to the requisite standard. The Panel determined that the Respondent breached a standard imposed under the Act; that she committed professional misconduct; and that she had incompetently practiced the profession. The Panel dismissed allegations 1(a)(iii), (b), (e) and (h)(ii) and h(iv).

3. The Panel set a schedule for written submissions on penalty and costs.

4. On October 10, 2019, the College provided written submissions on penalty and costs. On November 11, 2019, the Respondent provided a submission in response. On November 25, 2019, the College provided a reply submission.

5. On December 8, 2019, the Panel wrote to the Respondent's counsel seeking clarification with respect to two matters contained in the Respondent's submissions on penalty and costs:

> 1. At paragraph 2(a) and (b) of the Respondent's Submissions you set out your client's position with respect to the orders sought in paragraph 2 of the "Submissions of the College Penalty and Costs" ("College's Submissions"). You identify your client's position in relation to paragraphs 2(b) through (p) of the College's Submissions. No position is identified in relation to paragraph 2(a) of the College's Submissions. Can you please advise whether your client has a position on the College seeking an order that "2. a. The Registrant is reprimanded"?
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> 2. At paragraph 2(a) of the Respondent's Submissions it states "Ms. Whieldon takes no position on the orders sought and set out by the BCCNP in paragraphs 2(b), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) of their submissions". At paragraph 7 of the Respondent's Submissions, it states "In light of Ms. Whieldon's agreement not to return to nursing, she does not make submissions on the propriety of revoking her license in this situation, or of preventing her from returning to practice as a perinatal nurse except to say that such restrictions would both be excessively punitive". [emphasis added in both quotes]. Can you please clarify whether your client takes no position or takes the position that those orders would be excessively punitive?

6. On December 11, 2019, the Respondent provided written submissions relating to the clarification questions. On December 18, 2019, the College provided a submission in response.

7. The College is seeking the following orders pursuant to s. 39 of the Act:

    a. The Registrant is reprimanded;

    b. The Registrant is suspended for a period of 12 months;

    c. The Registrant is ordered to pay to BCCNP a fine in the amount of $10,000;

    d. At the end of the suspension, the Registrant will have limits and conditions on her registration, until she is relieved of the limits and conditions. The limits and conditions are described more particularly in subparagraphs e to p below.

    e. The Registrant will not be permitted to work in perinatal nursing, this is an enduring limit;

    f. The Registrant will not be permitted to work as the sole Registered Nurse on duty or the nurse in charge, or to have oversight of other staff for a period of 36 months from the date the Order is finalized;

    g. The Registrant will limit her employment to one nursing unit on her return to work and at least until the successful completion of the supervision period described below in subparagraph l.

    h. The Registrant must, at her own expense, successfully complete the following educational courses prior to returning to work as a Registered Nurse:

        i. Professional Standards web module available through BCCNP;

        ii. Documentation web module available through BCCNP;

        iii. Clinical Decision-Making in Nursing Practise available through BCCNP;

        iv. Early Recognition and Intervention for the Deteriorating Patient – for RNs available through KPU;

        v. Righting a Wrong: Ethics and Professionalism in Nursing available from NSCBN; and

        vi. PROBE Ethics & Boundaries Course.

(the “Educational Conditions”)

i. Upon successful completion of each of the above courses comprising the Educational Conditions, the Registrant must promptly provide BCCNP with a transcript or other documentation indicating successful completion, which may include the course outline and/or syllabus, workbooks, and a summary of her learning;

j. The Registrant must meet with a BCCNP Regulatory Practice Consultant to discuss the conduct and competency issues outlined in the Decision in relation to the Standards of Practise, including those of professional conduct established by the BCCNP;

k. The Practise Consultant will have the discretion to determine the appropriate number of sessions, not to be less than 4 sessions and not more than 8 sessions;

l. On her return to work, the Registrant will undergo a period of supervision. The supervision period will be as follows:

i. The Registrant must have her practise supervised by another registered nurse (the “Supervisor”), who will receive a copy of the Decision and the Discipline Panel’s Order on Penalty and Costs (the “Order”);

ii. The Supervisor must be identified to BCCNP prior to the Registrant’s return to work and the Supervisor must agree in writing that she/he/they will assume the role. Communication between the Supervisor and BCCNP will be unfettered;

iii. Supervision requirements begin on the first day of clinical practise. If a return to work begins in a non-clinical manner, for example with theory, orientation class or any way that does not involve patient care, supervision is not required;

iv. Stage 1: For the first 240 hours of clinical nursing practice, the Registrant must have 1:1 supervision while on duty. At the completion of 240 hours, the Supervisor must agree that the Registrant is practising safely, ethically, and competently before the Registrant can move on to

Stage 2. If the Supervisor does not believe the Registrant is safe to practise independently, the Registrant must remain at Stage 1 until the Supervisor's approval is obtained.

v. The Registrant must inform BCCNP when Stage 1 is complete.

vi. Stage 2: The Registrant and the Supervisor must meet in-person for 12 months of full time nursing (or equivalent of 1800 nursing practise hours) to review the Registrants Learning Plan and her nursing practise since the previous meeting.

vii. Meetings between the Registrant and Supervisor must occur at least once a week for the first three months of Stage 2 and then twice a month for the remaining nine months.

viii. If a substitute or alternative Supervisor is required, the name and contact information of the proposed replacement must be provided to the BCCNP monitor in advance of a supervision meeting. The requirement for unfettered communication with BCCNP extends to any replacement Supervisor.

m. The Registrant must develop a Learning Plan (the "Plan") once she knows her new practise environment. The Plan will incorporate the specific knowledge and skills required in the new practise area and is foundationally based on the areas of concern identified in the Decision, as follows:

i. The Plan must include columns for:

1. Area of Concern
2. New content (specific to the new work area)
3. Strategies
4. Resources
5. Examples from Practise
6. Evaluation

ii. Areas of Concern must include, at minimum, Documentation, Adherence to policy and protocol, Medication Administration, Assessment, Escalation of Care, Communication with patients and

family members, accessing learning resources, including electronic and computer resources.

iii. Prior to a return to work the Registrant must submit a copy of the Plan to her Supervisor and the BCCNP monitor.

iv. The Registrant must update the Plan with examples from her practice and must provide an updated copy of the Plan to the Supervisor and BCCNP monitor at the end of Stage 1 and at the time of each supervision meeting through Stage 2.

n. The Registrant will immediately update BCCNP with regard to the following:

i. New personal contact information.

ii. New or additional employer contact information.

iii. The suspension or termination of employment by any employer, any leave of absence (including medical leave), and resignation of employment.

o. The Registrant must:

i. Immediately release the Order to the below-listed individuals, and BCCNP may do the same:

1. All of her employers for a period of 36 months from the date the Order is final;

2. All direct supervisors for a period of 36 months from the date the Order is final; and

3. Any prospective employer upon acceptance of a new position for 36 months from the date the order is final; and

ii. Provide BCCNP with a letter from her employer, or prospective employer, confirming that they have received and read a copy of the Decision and this Order and agree to allow the Registrant to work in accordance with its terms prior to beginning work.

p. Costs to the BCCNP in the amount of $23,488.18 to be paid by June 1, 2020.

8. The Respondent's position in relation to the orders sought by the College was set out in her closing submissions as follows:

> 2. In specific response to the orders sought and set out by the British Columbia College of Nursing Professionals (the "BCCNP") in its submissions dated October 10, 2019:
>
> > (a) Ms. Whieldon will agree not to return to her nursing career, in perinatal nursing or otherwise. As such, Ms. Whieldon takes no position on the orders sought and set out by the BCCNP in paragraphs 2(b), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) of their submissions. Such orders would not take effect if she does not return to nursing and thus would be unnecessary to make and administer.
> >
> > (b) Ms. Whieldon submits that the orders sought and set out by the BCCNP in paragraphs 2(c) and (p) of their submissions are excessive, as they are not supported by a full appreciation of applicable case law, and go beyond the Panel's findings regarding Ms. Whieldon's liability.
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> 3. Ms. Whieldon submits that the case law and the mitigating factors in this case suggest that a fine is unnecessary and excessively punitive in these circumstances, as is the amount of costs requested by the BCCNP. Should the Panel award a fine and/or costs, the amounts should be, in totality, less than claimed by the BCCNP.

9. In her clarification submissions, the Respondent indicated that she opposed a reprimand on the basis that the Panel's decisions are already public documents. In particular, she submits that the Panel's decision of September 11, 2019, which contains critical findings of the Respondent, serves as a form of reprimand in and of itself. The Respondent says the totality of the penalty would be disproportionate if a reprimand were issued.

10. In clarifying her position with respect to revocation, the Respondent submits that "there is a difference between Ms. Whieldon making a significant concession to never practice her chosen field again, and the Panel in fact barring her in a public order from practicing." She submits that her willingness to agree to never practice again makes further orders revoking her license or imposing limits or conditions (including a limit that she never practice again as a perinatal nurse) excessively punitive.

11. In reply, the College distinguishes between the Panel's decision which set out its finding of fact and verdict, and a reprimand, which is the lowest form of discipline and represents a public rebuke for certain behaviour and conduct.

12. In reply to the Respondent's position on revocation, the College submits that "The time to broker an "agreement" about penalty has passed. There is no statutory authority for the Panel to accept a "concession" from Ms. Whieldon and the Registrant has not provided the Panel with any legal authority stating that it may do so." Moreover, the College submits that the Panel must make an order as to what if any suspension, conditions, and/or limits it wishes to place on the Registrant's ability to practise in the future. The Respondent is free to choose whether she will return to nursing, however, it is for the Panel to determine under what circumstances she may do so.

Legal Framework for Assessing Penalty

13. Having found that the Respondent breached a standard imposed under the Act, committed professional misconduct, and practiced incompetently, the Panel must decide what, if any, penalty is appropriate. Section 39 of the Act authorizes the Panel to impose the following penalties:

> 39 (2)If a determination is made under subsection (1), the discipline committee may, by order, do one or more of the following:
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> (a)reprimand the respondent;
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> (b)impose limits or conditions on the respondent's practice of the designated health profession;
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> (c)suspend the respondent's registration;
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> (d)subject to the bylaws, impose limits or conditions on the management of the respondent's practice during the suspension;
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> (e)cancel the respondent's registration;
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> (f)fine the respondent in an amount not exceeding the maximum fine established under section 19 (1) (w).

14. If the discipline committee orders a suspension or cancellation, the following additional provisions apply:

> 39 (8)If the registration of the respondent is suspended or cancelled under subsection (2), the discipline committee may
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> (a)impose conditions on the lifting of the suspension or the eligibility to apply for reinstatement of registration,
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> (b)direct that the lifting of the suspension or the eligibility to apply for reinstatement of registration will occur on
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> (i)a date specified in the order, or
>
> (ii)the date the discipline committee or the board determines that the respondent has complied with the conditions imposed under paragraph (a), and
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> (c)impose conditions on the respondent's practice of the designated health profession that apply after the lifting of the suspension or the reinstatement of registration.

15. Section 39 of the HPA also authorizes the Panel to impose costs, as follows:

> (5)If the discipline committee acts under subsection (2), it may award costs to the college against the respondent, based on the tariff of costs established under section 19 (1) (w.1).
>
> …
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> (7)Costs awarded under subsection (5) must not exceed, in total, 50% of the actual costs to the college for legal representation for the purposes of the hearing.

16. Finally, section 39 of the HPA also authorizes the discipline committee to stay an order made under section 39(2) pending the hearing of an appeal under section 40:

> (9)If an order under subsection (2) is appealed under section 40, the discipline committee, on application of the respondent under this section, may, by order,
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> (a)stay the order made under subsection (2) pending the hearing of the appeal, and
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> (b)impose limits or conditions on the practice of the designated health profession by the respondent during the stay.

17. The relevant factors to consider in determining an appropriate penalty are set out in *Law Society of British Columbia v. Ogilvie*, [1999] LSBC 17, most of which were referred to by the College in its submissions:

> a. the nature and gravity of the conduct proven;
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> b. the age and experience of the respondent;
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> c. the previous character of the respondent, including details of prior discipline;

> d. the impact upon the victim;
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> e. the advantage gained, or to be gained, by the respondent;
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> f. the number of times the offending conduct occurred;
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> g. whether the respondent has acknowledged the misconduct and taken steps to disclose and redress the wrong, and the presence or absence of other mitigating circumstance;
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> h. the possibility of remediating or rehabilitating the respondent;
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> i. the impact on the respondent of criminal or other sanctions or penalties;
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> j. the impact of the proposed penalty on the respondent;
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> k. the need for specific and general deterrence;
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> l. the need to ensure the public's confidence in the integrity of the profession; and
>
> m. the range of penalties imposed in similar cases.
>
> [the “Ogilvie Factors”]

18. Both parties referred to the more recent decision of *Law Society of BC v. Dent*, 2016 LSBC 05, which held that it is not necessary to consider each *Ogilvie* factor in every case, and that the factors can be consolidated. In *Dent*, the following consolidated list was suggested:

    a. Nature, gravity and consequences of conduct;

    b. Character and professional conduct record of the respondent;

    c. Acknowledgement of the misconduct and remedial action; and

    d. Public confidence in the legal profession including public confidence in the disciplinary process.

19. The College cited two penalty decisions which applied these principles and authorities: *CRNBC v. Jean Cunningham* (June 22, 2017) and *BCCNP v. Marilee Hansen* (February 2, 2019). The College of the Registered Nurses of British Columbia was one of the legacy colleges to the BCCNP.

20. The Respondent agrees with the College’s outline of the general legal framework that guides the Panel’s determination of any applicable penalties and awards of costs.

21. Both parties agree that the purpose of a penalty is to ensure the protection of the public, and an appropriate penalty specifically deters the Respondent and generally deters other nurses from engaging in similar conduct.

22. The Panel also agrees that the framework set out by the College above is the appropriate legal framework and agrees with both parties regarding the purpose of a penalty.

Nature, gravity and consequences of conduct

23. The College argues that the impact of the Respondent's conduct was that she put the labouring women, their fetuses, and neonates she nursed at serious risk of harm. The College notes that perinatal nursing is a specialized area of nursing in which nurses work with a greater scope of nursing practise. On the labour and delivery side of perinatal nursing, nurses are trained to monitor labouring women and their fetuses. The College notes that part of that monitoring involves following evidence-based protocols, best practices when it comes to interpreting fetal heart rhythm strips, and to document appropriately and accurately. With respect to post-partum care, the College points out that nurses are required to be knowledgeable about the birth history of their patients (who are the parents and neonates) and to be alert to possible complications and to discern what is normal and what is concerning and requires further assessment and/or interventions.

24. The College submits that the Respondent failed to interpret the fetal heart rate tracings correctly, she failed to follow the Oxytocin Management Checklist and interventions correctly, and she failed to notify the Most Responsible Physician ("MRP") when strips were atypical. The College submits that turning down oxytocin in response to maternal pain could prolong a labour and put a fetus at risk. Failing to respond to an atypical fetal heart strip also puts the fetus at risk.

25. The College submits that there were potentially life-threatening consequences with respect to the Respondent's incompetence to administer and manage oxytocin, to function within her own level of competence, and to escalate care.

26. In respect of escalation of care, the College submits the risk of harm did materialize in one case where the Respondent failed to escalate a neonate's care, despite the signs and symptoms of seizure. That baby ended up later being assessed in the nursery and transferred to a higher level of care.

27. The Respondent says she regrets that harm could have come to any of her patients, for whom she cared greatly. She notes that she did not take any actions with any deliberate intent to harm patients and that while she erred, she always did her best to care for her patient loads.

28. The Respondent submits that while there were multiple allegations against her, it should be noted that they all occurred within a few months, and most of the incidents occurred after her return to practice from a traumatic family leave.

29. The Respondent points to gaps in training at Langley Memorial Hospital and documentation failures by other nurses. She argues this does not absolve her but situates her conduct among her peers and the hospital environment at the time.

30. The Respondent submits that her conduct regarding oxytocin management was due to knowledge gaps which she admitted during the hearing. She says she was not working as a perinatal nurse from late 2011 until mid-2013, the period when the Oxytocin Protocol changed, and education rolled out regarding those changes.

31. Finally, the Respondent argues that weight should be given to the fact that she was partially successful at the hearing in that the Panel dismissed five of the allegations against her, and two allegations were not pursued by the College.

32. In reply, the College argues that the Respondent continues to deflect and minimize her conduct by attributing her oxytocin management deficits to a knowledge gap. The entirety of the Oxytocin Protocol is the pre-printed order sheet and the Oxytocin Management Checklist. The fact that changes were made to the Oxytocin Protocol while the Respondent chose to work in IV therapy is not an explanation for failing to read the Oxytocin Pre-printed Order Set and Oxytocin Management Checklist that she worked with virtually every day from mid-2013 to the relevant time period. By continuing to assert that the responsibility for reading the orders in

front of her and the associated Oxytocin Management Checklist lies with someone else continues to emphasize this Respondent's lack of insight and her refusal to accept responsibility for her incompetence.

33. The Panel finds that the nature and gravity of the proven conduct is very serious. In the Verdict Decision, the Panel found the Respondent to have breached multiple standards imposed under the Act, including professional responsibility and accountability standards, knowledge-based practice standards, and medication administration standards. The Panel found the Respondent to have committed professional misconduct, and to have incompetently practiced the profession. The proven conduct involved multiple instances, of multiple different forms of problematic conduct, over the course of multiple months.

34. In particular, the Panel found the Respondent failed to administer Erythromycin ointment to an infant, advised the patient that it was too late for the ointment to be given to her son, failed to escalate the issue, and falsified a patient record to indicate that an Informed Refusal had taken place, when she had not performed an Informed Refusal process and did not obtain the patient's Informed Refusal. The Panel found the Respondent failed to have escalated the care of an infant displaying symptoms of seizure, failed to have contacted the MRP in the case of a suspected missed dose of Erythromycin ointment, and discharged a patient without a physician's order. The Panel also found a pattern in the Respondent's want of ability with respect to the administration and management of oxytocin. Moreover, the Panel found that want of ability was not only historical but continued with the Respondent's testimony at the hearing and in her closing submissions. The Panel also found the Respondent continued to assert that she is justified in departing from the Oxytocin Protocol based upon her personal observations and interactions with the patient in the room, and parameters that are not recognized in the Protocol.

35. The Panel agrees with the College's submission that the Respondent continues to deflect and minimize her conduct by attributing her deficits to a knowledge gap. As the Panel found in its Verdict Decision, the changes made to the Oxytocin Protocol

were released several years before the Respondent took her leave of absence, those changes were rolled out to staff, and the key documents were readily available to her in hard copies and electronically. Moreover, the Respondent did participate in numerous learning opportunities offered through LMH in respect of oxytocin. The Respondent argues that the Oxytocin Protocol changes were made while she was practicing in IV therapy. The Panel does not accept this explanation for her conduct. As the Panel found in the Verdict Decision, the key documents (the Oxytocin Pre-Printed Order Set and Oxytocin Management Checklist) were readily available to the Respondent during the relevant period when she was practicing as a neonatal nurse.

36. Similarly, the Panel does not accept the Respondent's argument that gaps in training and failures by other nurses assist in situating her conduct for the purposes of this factor. The Panel found in the Verdict Decision that any training gaps did not explain the Respondent's proven conduct. The Panel finds that other nurses' conduct is not before this Panel.

37. The Panel does not take comfort from the Respondent's submission that she did not engage in deliberate conduct to harm her patients. The Panel agrees with the College's submission that the Respondent did put labouring mothers, fetuses and neonates at serious risk of harm.

38. The Panel finds this factor strongly favours a more serious penalty.

Character and professional conduct record of the respondent

39. The College acknowledges that the Respondent has been a registered nurse since 1992 and had no prior disciplinary record with the BCCNP or its legacy colleges. The College notes that the Respondent was qualified as a perinatal nurse in 2000 with the successful completion of the BCIT program. Nevertheless, the College submits that the Respondent had sufficient experience and training to know that her conduct did not meet the appropriate standards, and that her shortcomings cannot be excused by youth or inexperience.

40. The College submits that the Respondent's actions were not limited to a single incident but took place over a period of months. The Respondent's incompetence came to the notice of her employer, and later the College, as a result of at least two patient complaints, chart auditing, and what could be described as a critical incident review in the case of the seizing neonate.

41. The College submits that since the complaint, the Respondent did not demonstrate any insight into her behaviour. Rather, up until the discipline hearing, she rationalized and minimized her misconduct. In particular, the College argues that most concerning, was the Respondent's explanation for her failure to escalate care for a neonate with obvious signs and symptoms of seizures as well as her account of the patient refusing Erythromycin for her baby boy and her explanation for the misleading and false documentation she created. The College argues that the Respondent continued to dispute her shortcomings when it came to her documentation, management of oxytocin, and her abilities to interpret and act appropriately to fetal heart monitoring strips throughout the discipline hearing.

42. The College argues that the Respondent's dishonesty in creating false and misleading documentation and her failure to acknowledge responsibility for that is very concerning and does not speak to the character and professional conduct the College or the public expects of a registered nurse.

43. The Respondent points to the Respondent's 25-year nursing career and unblemished prior discipline history. The Respondent submits that the evidence at the hearing was that she had a career where she was generally considered competent, experienced, knowledgeable, and capable. In particular, the Respondent relies on the evidence given by Sandy Hill.

44. The Respondent submitted numerous letters of reference, which she argues attest to her work ethic, her concern for the wellbeing of her patients, and her compassionate, client-focused approach to her work.

45. The Respondent submits that she demonstrated commitment to identifying gaps, learning, and improving her skills. She says she willingly participated in her June Learning Plan and the plan was mostly complete. She also submits she willingly

and quickly completed all the courses required of her by her manager. The Respondent notes that she also was among the first to submit a voluntary chart audit for review to Shaylnn Smith in August 2018 and selected oxytocin administration for her review. The Respondent argues that her Learning Plans contain many positive remarks and that while she was working on meeting certain objectives, the evidence was that she excelled at many aspects of her care.

46. The Respondent points to her multiple PSLSs, PRFs and replacement grievances as evidence of her putting considerable time and effort into trying to make the hospital environment better for her colleagues and patients.

47. She notes she has been nominated for the BC Recreation and Parks Association ("BCRPA") Manager of the Year and provided reference letters for that nomination.

48. The Respondent submits that it is evident she has earned the respect and admiration of many colleagues, clients, and patients over the course of her nursing career, and that the Panel should consider this significant mitigating factor in determining any appropriate monetary penalty.

49. The Respondent notes that in 2017, she finished the Perinatal CAEN with an 81% final grade – yet was told she did not pass. She completed the Nurse Ready Program and took all the required courses set out in the CAEN, achieving high marks in each. She paid $4,096.15 for the courses and received a partial refund.

50. The Respondent submits that she voluntarily surrendered her license when asked and "did not fight the BCCNP or require a hearing over the license revocation." She says the fact that she already voluntarily surrendered her license and has not been able to work as a nurse since January 2017 is a further, significant, mitigating factor in this case. The Respondent argues she "is already years into serving a sentence in this matter."

51. In reply, the College submits little weight should be given to the reference letters, as they span two decades and were prepared for multiple different purposes. In relation to two letters written by patients, the College questions how the

Respondent came into possession of former patients' contact information years after providing them with care and while she was non-practicing.

52. The College also notes that the complaint regarding the Respondent's nursing practise was received by the legacy college on December 2, 2016. At that time, the Respondent had been cleared to return to work after a medical leave. Her employer required her to complete a perinatal CAEN assessment prior to her return to her position at Langley Memorial in the perinatal unit given the numerous concerns the employer had with respect to the Respondent's competence. The Respondent failed that CAEN assessment. On being given notice that the Respondent was found to be incompetent by an impartial third-party assessment, the legacy college requested that the Respondent convert her registration to non-practising pursuant to an interim voluntary undertaking. The College points out that the Respondent consented to that and her status was changed in April 2017. The College submits that the Respondent did not "surrender" her license, as she continued to be a registrant and still is. She has renewed her registration as a non-practising registrant since first going non-practising in 2017. Moreover, the College points out that there is no procedural right to a "hearing" with respect to voluntary interim undertakings and the Respondent's license was not revoked.

53. The Panel agrees with both parties that the Respondent has been a registrant for a lengthy period and has no prior disciplinary history. These count in the Respondent's favour when considering an appropriate penalty.

54. The Panel also agrees, however, that the Respondent's age and experience mean that her conduct cannot be excused by youth or inexperience. This is particularly the case as relates to the Respondent's dishonesty in creating false and misleading documentation and her failure to acknowledge responsibility for that conduct. As a result, the Panel gives less weight to the Respondent's otherwise positive professional conduct record.

55. The Panel has considered the Respondent's letters of references. The Panel recognizes the content of those letters is positive. Nevertheless, the Panel chooses to accord them little weight given the timing of some of the letters and the

range of purposes for which they were prepared. The Panel does recognize that aspects of the Respondent's reputation in her community and among her peer nurses are positive. The Panel notes that Sandy Hill described the Respondent as a "good nurse", "smart", "dedicated", "knowledgeable" and someone with experience. However, the positive comments cannot be considered in isolation. Several witnesses also gave evidence at the hearing against the Respondent and which was critical of the Respondent.

56. The Panel agrees with the College's characterization of the Respondent's voluntary and consent-based conversion to non-practicing registration following her failure of the CAEN assessment. The Respondent's registration has not been "revoked". With respects to the CAEN, the Panel finds that while the Respondent achieved some high academic grades, she failed the assessment on the practical component. Likewise, while the Panel recognizes the Respondent has completed coursework and has expressed a desire for lifelong learning, the proven conduct underscores issues with the Respondent's practical application and adherence to protocols.

57. Overall, this factor has aspects that favour a less serious penalty and aspects that favour a more serious penalty.

Acknowledgement of the misconduct and remedial action

58. The College submits that while the Respondent says she is open to modifying her nursing practise where it did not meet standards, she appears to view this as a passive process, whereby others identify her deficits, do the work to educate her and remedy these deficits. The College argues that remediation requires active engagement by the Respondent, including her identifying her learning needs, being receptive to constructive feedback, and actively working to identify resources to remedy learning gaps.

59. The College submits that the Respondent did not admit her incompetence and largely denied it throughout the hearing. The only admissions she made served to minimize the more serious allegations. The College refers to the following passage from the Verdict Decision:

> 202. … Ms. Whieldon's failure to have escalated the care of an infant displaying symptoms of seizure, her failure to have contacted the MRP in the case of a suspected missed dose of Erythromycin ointment, and the discharge of a patient without a physician's order, demonstrate this was not an isolated event but part of a larger pattern of behaviour. In each case, Ms. Whieldon's response was also to deflect blame on to either the patient, another nurse, or the overall operations of the hospital…

60. The College submits that the Respondent's practice in perinatal nursing cannot be rehabilitated and she should be prohibited from ever working in perinatal nursing again. In the alternative, the College submits that education, strict supervision, and compliance with the limits proposed are necessary before the Respondent could be permitted to practise independently in any other clinical setting.

61. The Respondent submits she conceded six of the College's allegations in her submissions to the Panel dated June 11, 2019. She submits her acknowledgment of her errors and repeated statements during the hearing that she was open to learning proper administration and documenting techniques are evidence that she regretted her actions and acknowledged her mistakes.

62. For the remaining allegations for which the Panel found sufficient evidence of a breach, incompetence, or professional misconduct, the Respondent submits that the Panel should consider the following mitigating factors:

    a. her leave of absence from October 30, 2015 until April 2016 to care for her critically ill child;

    b. her inadequate re-orientation upon her return to work, and her position that her unit was often short staffed;

    c. short staffing affected the Respondent's decision making and her ability to meet the demands of her job; and

    d. she has taken education steps.

63. The Respondent submits that while these factors do not absolve her of blameworthiness for her conduct, "these amount to mitigating factors that help to explain the circumstances in which her conduct occurred. She was often overworked, underprepared, working without breaks, and returning from an

emotionally difficult time in her life into a high stress environment. She had difficulty getting timely feedback and mentorship when she sought it. Her mistakes during this isolated period of her life should be considered within this context."

64. In reply, the College argues that the Respondent's admissions did not encompass the full scope of her incompetence and misconduct and the admissions she did make were unclear. Further, the admissions were not made in advance of the hearing.

65. The Panel finds that while the Respondent made some admissions, she has overstated her acknowledgement of her misconduct, breaches and incompetence. The Respondent's admissions were narrow and for the least serious allegations. The Respondent persisted with denials through the hearing and in her closing submissions. This was particularly notable with respect to Respondent's explanation for her failure to escalate care for the baby with signs and symptoms of seizures, her account of the patient refusing Erythromycin for her son, and her explanation for the creation of false documentation relating to that patient event. Moreover, in relation to oxytocin management, the Respondent continued to assert that she is justified in departing from the Oxytocin Protocol based upon her personal observations and interactions with the patient in the room, and parameters that are not recognized in the Protocol.

66. The Panel is sympathetic to the Respondent's leave of absence for a traumatic event with her child. However, the Panel does not find her leave of absence, any inadequate re-orientation, or short staffing to be mitigating factors in this analysis. The Panel found no connection between those circumstances and the Respondent's conduct during the material times in the Verdict Decision. Moreover, the Panel finds these to be of little assistance in determining this factor of the *Dent* analysis; that is, whether the Respondent acknowledged her conduct and took remedial action.

67. As far as remedial action is concerned, the Panel is not convinced the Respondent has taken any remedial steps in relation to the most serious conduct which was proven and not admitted. Indeed, as noted above and in the Panel's decision of

September 11, 2019, the Respondent continues to deflect blame to the patient, another nurse or the operations of the hospital. The Panel agrees with the College's submission that the Respondent's practice in perinatal nursing cannot be rehabilitated.

68. The Panel finds this factor weighs in favour of a more serious penalty.

Public confidence in the profession including public confidence in the disciplinary process

69. The College submits that in relation to general deterrence, the penalty imposed in this case must emphasize the College's regard for the importance of nurses to follow medication protocols and orders, to escalate care appropriately, and to be honest and accurate in all of their documentation regarding their findings and interactions with patients.

70. The College argues that the failure of nurses to document honestly and accurately would erode the public's trust in the profession and the penalty must emphasize College's condemnation of dishonest and inaccurate documentation in a legal record. The College submits that the imposition of a fine serves to underline the Panel's disapproval and condemnation of this type of behaviour.

71. The College submits that adherence to protocols, appropriate escalation of care and honest and accurate documentation is also vital to maintaining public confidence. The College submits that maintaining public confidence in the profession and in the disciplinary process is a particularly important concern given the fundamental principles of nursing care at issue and the potentially disastrous consequences of the Respondent's actions.

72. The Respondent argues she has not practiced as a nurse since January 4, 2017 and is willing to agree not to return to nursing. Since October 2017, she has been working as a personal trainer and manager of a personal training and rehabilitation studio.

73. The Respondent submits that in terms of specific and general deterrence, the Panel should give significant weight to the Respondent's "nearly 3-year suspension

to date, and her submission that she is willing to agree not to return to the practice of nursing." She argues that there is no risk to the public if she refrains from practicing as a nurse.

74. The Respondent submits that the fact that the decision is public serves to educate other registrants about professional standards. She submits an additional monetary penalty will not serve any additional educational function or purpose and is not necessary to achieve this goal.

75. In respect of public confidence, the Respondent reiterates that the public hearing and decision, as well as her nearly 3-year license suspension and submission that she will agree not to return to nursing are sufficient to maintain public confidence in the profession of nursing.

76. In reply, the College submits that the Panel's penalty and costs decision must be in the form of a final order, regardless of a registrant's willingness to agree to revocation, suspension or any other order the Panel may wish to make pursuant to section 39 of the Act. The order of this Panel should address specific and general deterrence. The College reiterates that the Respondent was not suspended for nearly three years. Rather, she voluntarily agreed to convert to non-practising registration.

77. The Panel finds that following medication protocols and orders, appropriately escalating care, and being honest and accurate in documentation are fundamental to the practice of nursing. A penalty must be designed to reflect the importance of these principles and to deter the Respondent and other registrants in the profession from engaging in future conduct that violates those principles. The Panel does not accept the Respondent's submission that there is no need for specific deterrence in this case because she is "willing to agree not to return to nursing". This submission fails to take into account what would occur in the absence of an order, if the Respondent later changed her mind and decided to attempt to return to practice. It ignores how the registration provisions in the College's Bylaws and under section 20(2.1) of the HPA operate in circumstances of status change, re-entry and reinstatement.

78. While the Panel agrees that public hearings and decisions may educate registrants and the public about professional standards, and may serve to enhance public confidence in the profession and the disciplinary process, the Panel does not agree that the HPA's requirements for public hearings in section 38(3) and public notification in section 39.3 should serve to minimize or limit the scope of an appropriate penalty under section 39(2) of the HPA. Moreover, the public nature of the hearing and decision notice is insufficient to maintain public confidence in the profession and the disciplinary process if an appropriate penalty is not delivered.

79. The Panel finds that this factor favours a more serious penalty.

Caselaw

80. The College relies upon the following penalty cases:

    a. *College of Nurses of Ontario v. Powell*, 2011 CanLII 100540 (ON CNO)

    b. *College of Nurses of Ontario v. Kaastra*, 2011 CanLII 99853 (ON CNO)

    c. *College of Nurses of Ontario v. Skepple*, 2016 CanLII 102073 (ON CNO)

    d. *College of Nurses of Ontario v. Gordon-Neblette*, 2016 CanLII 114389 (ON CNO)

    e. *BCCNP v. Marilee Hansen* (February 2, 2019).

81. Based upon these authorities, the College argues that the Panel may determine that revocation of the Respondent's license is necessary. However, in the event that the Panel determines that the Respondent may be able to practice safely in the future, the College is of the view that specific and general deterrence may be achieved with a reprimand, a 12 month suspension, and limits and conditions on the Registrant's practice.

82. The Respondent relies upon the following penalty cases:

    a. *CRNBC v. Laurie Tinkham* (November 7, 2017)

    b. *CRNBC v. Kimberly Hurlston* (October 31, 2017)

    c. *CNO v Eileen Peters*, 2009 CanLII 92080 (2009 CanLII 92080)

d. *CNO v Susan Collins*, 2006 CanLII 81750

e. *LPNBC v Brigitta Pelcz* (March 7, 2017)

f. *CNO v Amy Nugent*, 2015 CanLII 89631

83. The Respondent submits that the authorities demonstrate that the highest monetary fines and assessments of costs are reserved for cases where the nurse has engaged in flagrant, serious, and deliberate mistreatment of patients, such as the financial exploitation of elderly patients, and engaging in sexual relationships with patients. Moreover, she argues that the above authorities more accurately reflect the misconduct of which she was found to have committed, and demonstrate that a monetary fine is a rare and extraordinary remedy that is not appropriate in these circumstances.

Penalty

84. The Panel has weighed the *Ogilvie* and *Dent* factors favouring a less or more serious penalty and has considered the caselaw cited by the parties. It finds that the nature, gravity and consequences of conduct, acknowledgement of the misconduct and remedial action, and public confidence in the profession and disciplinary process outweigh the Respondent's character and record of professional conduct. Accordingly, the Panel finds that the appropriate penalty is:

a. a reprimand;

b. a 12 month suspension;.

c. the limits and conditions sought by the College and which are set out at paragraph 7(d) to (p) above; and

d. costs.

85. The Panel has declined to issue a fine in this case as it considers a 12-month suspension to be a very serious penalty. The Panel considered all of the proven conduct relating to breaches of standards, significant professional misconduct, and incompetency in determining the length of the suspension. This includes the falsification of documentation.

Costs

86. The College is seeking to recover its costs for the preparation for and conduct of the discipline hearing. Section 39(5) of the HPA provides that a discipline panel may award costs to the College against a respondent based upon a tariff of costs in the College's bylaws, established pursuant to section 19 (1) (w.1) of the HPA. Section 39(7) provides that such costs must not exceed 50% of the actual costs to the College for legal representation for the purposes of the hearing.

87. Section 347 of the College's Bylaws establishes a tariff of costs pursuant to section 19(1) (w.1) of the Act, set out in Schedule I. The tariff provides that the College may recover expenses for legal representation for the purposes of preparing for and conducting the hearing up to 50% of actual legal costs. In addition, the College may recover reasonable and necessary expert witness fees for the purposes of preparing for and conducting the hearing, up to 100% of actual fees, and reasonable and necessary disbursements incurred for the purposes of preparing for and conducting the hearing (including disbursements incurred by legal counsel), up to 100% of actual disbursements.

88. In this case, the discipline hearing was conducted by in-house legal counsel, who is a salaried employee of the College. The College submits that, in the circumstances, its legal expenses should be quantified using the Supreme Court Civil Rules tariff system. The College calculated its costs as being $17, 800 (162 units at Scale B ($110), which is the scale for matters of ordinary difficulty). The College seeks 50% of that amount, or $8,910.

89. The College seeks $14,577.78 in disbursements, which include:

    a. Court reporter's costs for the hearing from May 22, to June 1, 2019, inclusive of taxes: $8,439.89,

    b. Expert witness fees, inclusive of taxes: $5,943.59; and

    c. Witness fees/expenses of $194.70.

90. The total amount sought by the College is $23,488.18.

91. The College submits that it ought to be indemnified to the maximum allowable under Schedule I for several reasons. First, while there was mixed success, the College proved the most serious allegations which resulted in findings that the Registrant committed professional misconduct and was incompetent. The College submits that a mathematical calculation for percentage of allegations would not be appropriate here as not all of the allegations were equally serious. Second, the College submits that nature of the misconduct and incompetence, and the Respondent's refusal to make any admissions prior to the hearing, necessitated holding the hearing. Third, the College submits that the costs are not so large as to be punitive to the Respondent, or to defer other registrants from raising a legitimate defence. The College suggested that the Panel permit the Respondent some months to pay and order that the costs be paid in full by no later than June 1, 2020.

92. The Respondent takes the position that either no costs should be awarded in this case or if they are to be awarded, they should be much lower. The Respondent relies upon the *Jaswal v. Newfoundland Medical Board* case cited by the College.

93. The Respondent does not dispute the College's methodology of using the Supreme Court Civil Rules tariff to calculate the amount of costs payable. The Respondent does dispute the amounts (i.e. the number of "units") claimed. In particular, the Respondent disputes items 11, 6 and 32. Of the 162 units claimed by the College, the Respondent submits that no more than 143 should be considered by the Panel as the upper limit when determining an appropriate range of costs.

94. The Respondent also notes the following additional considerations:

    a. Five of the allegations were dismissed and two were dropped by the College;

    b. The Respondent attempted to discuss certain allegations and admissions with the Inquiry Committee. She says she was required to admit to 100% of the allegations against her or attend a discipline hearing. She says she

should have been granted an in-person audience with the Inquiry Committee;

c. While the College complied with its disclosure obligations under the HPA, such disclosure only 2 to 3 weeks prior to an 8-day hearing makes it considerably difficult to facilitate hearing admissions, organize witnesses, and best ensure the efficient running of a hearing of substantial length;

d. The scope and duration of the hearing was largely dictated by the BCCNP. Of the seven hearing days, five were used to present the College's case. The Respondent should not bear the maximum allowable costs incurred by the BCCNP, particularly relating to the allegations that were dismissed by the Panel;

e. An award of costs in the amount sought by the BCCNP is inconsistent with the jurisprudence. The Respondent relies upon the decision of *LPNBC v. Brigitta Pelcz* (March 7, 2017) in that regard;

f. The Panel must take the Respondent's financial position into consideration. In particular she points to the fact that she is a single mother caring for a disabled child, she engaged legal counsel to defend herself in these proceedings as her union would not represent her through a hearing, she incurred in excess of $140,000.00 in legal expenses, she has had to mortgage her home to cover expenses, and she alleges she was required to admit to all of the allegations against her, or to attend the discipline hearing;

g. The Panel must be mindful that an award of costs does not deter Registrants from advancing meritorious defences, particularly where their license has been suspended and their income compromised;

h. The Respondent did not work from January to October in 2017. Since October 2017, she has made a modest income as a personal trainer and manager;

95. Ultimately, the Respondent takes the position that if an award for costs is made, it should not exceed $3000. The Respondent also requests permission to pay the costs at stipulated intervals like those imposed in the *Hansen* decision (i.e. at intervals over a 2-year period).

96. In reply to the amount of costs claimed, the College notes that costs claimed are 50% of the total calculated costs and amount to only $8,910, which is striking in comparison to the legal expenses which the Respondent states she incurred in preparation for this hearing.

97. The College also disputes the Respondent's position with respect to her interactions with the Inquiry Committee, and with respect to the Inquiry Committee's role and processes. The College categorically disagrees with the Respondent's suggestion that had she been provided with an opportunity for an "in person audience" that "admissions could have been facilitated" more easily or hearing time shortened. The College says that her refusal to particularize her concerns with a consent agreement proposed by the Inquiry Committee made the hearing inevitable.

98. The College also takes issue with the Respondent's characterization of the disclosure that took place. The College asserts that not only did it follow the letter and spirit of the law, but the Respondent was well acquainted with the subject matter of the hearing from the investigation. Registrants are provided with foundational documents in College investigations.

99. In reply, the College acknowledged that holding non-practising nursing status from the time BCCNP requested the Registrant go non-practising to the conclusion of the disciplinary hearing process is significant. However, the College notes this is not solely attributable to the College. First, it was the Respondent's incompetence and misconduct that brought her into the regulatory process, and second, the Respondent refused to make reasonable admissions in the face of cogent and compelling evidence. Additionally, she could have sought employment in another domain to mitigate her financial loss.

100. Finally, the College would be agreeable to a schedule for payment of costs and fine ordered by the Panel.

101. The Panel appreciates the College's proposed framework for calculating actual legal fees, which was not contested by the Respondent. The Supreme Court Civil Rules are a useful tool for calculating the legal fees of internal legal counsel, and the Panel adopts this methodology for the purposes of this decision. The Panel notes that in doing so, other methodologies could also be found to be useful and appropriate as well (for example, a notional hourly rate and tracking time).

102. The Panel has considered the Respondent's submissions with respect to the specific units identified above, and declines to reduce the total number of units claimed. The College was conservative in the number of units it claimed, and the total amount claimed is fair. In addition, the College applied the tariff at Scale B, which is based upon a rate of $110. Moreover, because the College is obligated to apply the Schedule I Tariff from the College's Bylaws to actual legal fees, this means that in this instance, the College is in effect applying a tariff upon a tariff.

103. The Panel agrees with the Respondent that a reduction in costs is appropriate to reflect that some of the charges were not pursued or proven. The Panel also agrees with the College that the 11 charges which it did prove included the most serious allegations that were at issue. The Panel finds that a proportionate reduction of 11/18 is fair and appropriate in the circumstances and balances these and other considerations set out below.

104. The Panel finds that all the disbursements claimed by the College were reasonable and necessary for the purposes of preparing for and conducting the hearing. The Panel orders $14,577.78 in disbursements.

105. In relation to the additional considerations raised by the Respondent, the Panel has considered the Respondent's financial circumstances and factored that into the reduction in costs.

106. The Panel does not accept the Respondent's submission that she was entitled to an in-person audience before the Inquiry Committee, and the absence of same

should be considered in assessing costs. The Panel has insufficient evidence in front of it to determine whether there is any basis to the Respondent's assertion that she was required to admit 100% of the allegations against her in a consent agreement or face a discipline hearing, however it is not necessary for the Panel to make that determination. It is always open to a registrant at a discipline hearing to admit some but not all the allegations contained in a citation. In addition, sections 37.1(1) and 37.1(5) of the HPA set out a consent resolution proposal framework that is available to all registrants after the issuance of a citation. Those provisions expressly contemplate the active involvement of the registrant in delivering a written proposal.

107. The parties agreed that the College met all of its disclosure obligations under the HPA, and the Panel sees no basis to further reduce the costs due to the timelines set out in the HPA.

108. The Panel does not accept the Respondent's submission that the award of costs sought by the College is inconsistent with the jurisprudence. The Panel has considered the *Pelcz* decision relied upon by the Respondent and does not find it to be of assistance. There is no information in that case about the actual fees and disbursements that were incurred or why that panel arrived at the determination that $3,000.00 in costs was appropriate. Indeed, the Panel in that case remarked at para 37 "…we were not provided with the actual fees and so were unable to determine with any degree of certainty the magnitude of this request." The Panel notes that in *CRNBC v. Jean Cunningham* (June 22, 2017), a panel of the legacy College ordered costs of $8,027.75. More recently, in *BCCNP v. Marilee Hansen* (February 2, 2019), a panel of this College ordered costs in the amount of $36,926.56. Both of those hearings were significantly shorter than this one.

109. The Panel has considered whether this costs award would deter other registrants from advancing meritorious defences and finds that it does not. This was a significant hearing which involved many serious allegations. There were numerous witnesses and two experts. The documents were extensive. The costs award falls within the reasonable range from the caselaw and what would be expected of a

similar hearing. The Panel is of the view that registrants would recognize that to be the case, and would not be deterred from pursuing meritorious defences in future cases.

110. For these reasons, the Panel orders that the Respondent pay costs to the College in the amount of $20,016.67, consisting of:

    a. $5,438.89 as a proportionate (11/18) award of 50% actual legal fees; and

    b. $14,577.78 in disbursements.

Order

111. The Panel orders the following:

    a. The Registrant is reprimanded;

    b. The Registrant is suspended for a period of 12 months;

    c. At the end of the suspension, the Registrant will have limits and conditions on her registration, until she is relieved of the limits and conditions. The limits and conditions are described more particularly in subparagraphs d to o below.

    d. The Registrant will not be permitted to work in perinatal nursing;

    e. The Registrant will not be permitted to work as the sole Registered Nurse on duty or the nurse in charge, or to have oversight of other staff for a period of 36 months from the date the Order is finalized;

    f. The Registrant will limit her employment to one nursing unit on her return to work and at least until the successful completion of the supervision period described below in subparagraph k.

    g. The Registrant must, at her own expense, successfully complete the following educational courses prior to returning to work as a Registered Nurse :

        i. Professional Standards web module available through BCCNP;

        ii. Documentation web module available through BCCNP;

iii. Clinical Decision-Making in Nursing Practise available through BCCNP;

iv. Early Recognition and Intervention for the Deteriorating Patient – for RNs available through KPU;

v. Righting a Wrong: Ethics and Professionalism in Nursing available from NSCBN; and

vi. PROBE Ethics & Boundaries Course.

(the “Educational Conditions”)

h. Upon successful completion of each of the above courses comprising the Educational Conditions, the Registrant must promptly provide BCCNP with a transcript or other documentation indicating successful completion, which may include the course outline and/or syllabus, workbooks, and a summary of her learning;

i. The Registrant must meet with a BCCNP Regulatory Practice Consultant to discuss the conduct and competency issues outlined in the Decision in relation to the Standards of Practise, including those of professional conduct established by the BCCNP;

j. The Practise Consultant will have the discretion to determine the appropriate number of sessions, not to be less than 4 sessions and not more than 8 sessions;

k. On her return to work, the Registrant will undergo a period of supervision. The supervision period will be as follows:

i. The Registrant must have her practise supervised by another registered nurse (the “Supervisor”), who will receive a copy of the Decision and the Discipline Panel’s Order on Penalty and Costs (the “Order”);

ii. The Supervisor must be identified to BCCNP prior to the Registrant’s return to work and the Supervisor must agree in

writing that she/he/they will assume the role. Communication between the Supervisor and BCCNP will be unfettered;

iii. Supervision requirements begin on the first day of clinical practise. If a return to work begins in a non-clinical manner, for example with theory, orientation class or any way that does not involve patient care, supervision is not required;

iv. Stage 1: For the first 240 hours of clinical nursing practice, the Registrant must have 1:1 supervision while on duty. At the completion of 240 hours, the Supervisor must agree that the Registrant is practising safely, ethically, and competently before the Registrant can move on to Stage 2. If the Supervisor does not believe the Registrant is safe to practise independently, the Registrant must remain at Stage 1 until the Supervisor's approval is obtained.

v. The Registrant must inform BCCNP when Stage 1 is complete.

vi. Stage 2: The Registrant and the Supervisor must meet in-person for 12 months of full time nursing (or equivalent of 1800 nursing practise hours) to review the Registrants Learning Plan and her nursing practise since the previous meeting.

vii. Meetings between the Registrant and Supervisor must occur at least once a week for the first three months of Stage 2 and then twice a month for the remaining nine months.

viii. If a substitute or alternative Supervisor is required, the name and contact information of the proposed replacement must be provided to the BCCNP monitor in advance of a supervision meeting. The requirement for unfettered communication with BCCNP extends to any replacement Supervisor.

l. The Registrant must develop a Learning Plan (the "Plan") once she knows her new practise environment. The Plan will incorporate the

specific knowledge and skills required in the new practise area and is foundationally based on the areas of concern identified in the Decision, as follows:

i. The Plan must include columns for:

1. Area of Concern
2. New content (specific to the new work area)
3. Strategies
4. Resources
5. Examples from Practise
6. Evaluation

ii. Areas of Concern must include, at minimum, Documentation, Adherence to policy and protocol, Medication Administration, Assessment, Escalation of Care, Communication with patients and family members, accessing learning resources, including electronic and computer resources.

iii. Prior to a return to work the Registrant must submit a copy of the Plan to her Supervisor and the BCCNP monitor.

iv. The Registrant must update the Plan with examples from her practice and must provide an updated copy of the Plan to the Supervisor and BCCNP monitor at the end of Stage 1 and at the time of each supervision meeting through Stage 2.

m. The Registrant will immediately update BCCNP with regard to the following:

i. New personal contact information.

ii. New or additional employer contact information.

iii. The suspension or termination of employment by any employer, any leave of absence (including medical leave), and resignation of employment.

n. The Registrant must:

i. Immediately release the Order to the below-listed individuals, and BCCNP may do the same:

1. All of her employers for a period of 36 months from the date the Order is final;

2. All direct supervisors for a period of 36 months from the date the Order is final; and

3. Any prospective employer upon acceptance of a new position for 36 months from the date the order is final; and

ii. Provide BCCNP with a letter from her employer, or prospective employer, confirming that they have received and read a copy of the Decision and this Order and agree to allow the Registrant to work in accordance with its terms prior to beginning work.

o. Costs to the BCCNP in the amount of $20,016.67 to be paid within one year (1) of this order.

112. The parties may agree to a schedule for payment of the costs over the period of the year. If they are unable to agree, the parties may return for further direction from the Panel.

113. The Panel considered whether to further extend the timeline for payment of costs in light of the Covid19 pandemic. The Panel considered that the terms of its stay order operate in a manner that accommodates this consideration.

Publication

114. The Panel directs the Registrar to notify the public of its decisions pursuant to section 39.3(1)(e) of the HPA. The Registrar must also notify pursuant to section 226 of the Bylaws all registrants, and all bodies in other provinces in Canada that

regulate the health professions corresponding to practical nursing, psychiatric nursing and registered nursing; may notify any employer or prospective employer of the Respondent; and may notify any other body in British Columbia, another province or a foreign jurisdiction that regulates a health profession.

Notice of right to appeal

115. 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.

Sheila Cessford, Chair — Date: April 14/20

Dr. Thomas Ward — Date: April 14/2020

Edna McLellan — Date

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Dr. Thomas Ward Date

Apr 14, 2020

Edna McLellan Date