

**IN THE MATTER OF
THE BRITISH COLUMBIA COLLEGE OF NURSING PROFESSIONALS
AND UNDER THE HEALTH PROFESSIONS ACT,
R.S.B.C. 1996, chapter 183 (the “Act”)**

BETWEEN:

THE BRITISH COLUMBIA COLLEGE OF NURSING PROFESSIONALS OF
(the “College” or “BCCNP”)

AND:

[THE APPLICANT]
(the “Applicant”)

Date and Place of Hearing:

Date: September 9, 2019

Place: 900-200 Granville Street, Vancouver, BC,

Members of the Hearing Panel of the Registration Committee:

Jocelyn Stanton (Chair)

Violet Tregillus

Tracy Hoot

Counsel for the Applicant:

Peter Eastwood

Independent Legal Counsel for the Panel:

Lisa C. Fong

Lauren Riva, Articled Student

**REASONS FOR DECISION AND ORDER
OF THE REGISTRATION COMMITTEE**

1. A hearing panel of the Registration Committee (the “Panel”) convened on September 9th, 2019 at 10:33 a.m. to inquire into the Applicant’s qualifications for registration.

A. Overview

2. The Applicant initially obtained registration with the College of Registered Nurses of British Columbia (“CRNBC”) in February 1998. Since 1998, the Applicant has worked at [the Hospital] (the “Hospital”).

3. In October 2016, the Manager of Clinical Services, Medicine, at the Hospital, filed a complaint to the College concerning the Applicant’s conduct on August 3, 2016 (the

“Complaint”). Pending investigation, the Applicant voluntarily transferred to non-practising registration, effective November 2, 2016, pursuant to an interim undertaking.

4. The Applicant underwent an independent medical examination (“IME”) on November 16, 2016. The IME report opined that the Applicant was suffering from substance use disorder relating to “alcohol/sedatives, cocaine”. The Applicant was considered not fit to return to work, and she underwent monitoring and treatments. When the Applicant failed to renew her registration before February 28, 2018, she relinquished her registration with CRNBC. The Applicant applied for reinstatement of her license on May 30, 2018.

5. CRNBC amalgamated into the present College on September 4, 2018.

6. On January 24, 2019, and due in part to the Applicant relinquishing her registration, the Inquiry Committee disposed of the Complaint under s. 33(6)(b) of the *Health Professions Act*, R.S.B.C. 1996, c. 183 (the “HPA” or “Act”) by referring the investigation file to the Registration Committee. The Inquiry Committee noted that the Applicant’s voluntary relinquishment had the “effect of preventing the... completion of an investigation... that could have resulted in the person’s entitlement to practise... being suspended or cancelled,” within the meaning of s. 20(2.1)(b.1) of the HPA.

B. Procedural background

7. On May 1, 2019, the College wrote to the Applicant on behalf of the College’s Registration Committee (the “Committee”) and requested that the Applicant attend at the College for a Formal Interview Hearing.

Disclosure pkg. pg. 356-357

8. On June 28, 2019, the College wrote to the Applicant on behalf of the Committee and requested that the Applicant attend at the College for a Formal Interview Hearing with a panel comprised of three members of the Committee.

9. On July 15, 2019, the College wrote to the Applicant and provided her with copies of the information and documents (the “Disclosure pkg.”) that were on file with the College and would be available for review and consideration by the Panel of the Committee in advance of the Formal Interview Hearing scheduled for July 31, 2019.

Disclosure pkg. pg. 1

10. Mr. Eastwood, counsel for the Applicant, provided written submissions dated September 24, 2019.

C. Facts and Evidence

Past Experiences

11. The Applicant testified that she had a difficult childhood. Her family moved off-reserve when she was four years old. She testified that she experienced bullying as a result of her first nations heritage, that she felt isolated in the community and unsafe in her home. She testified that her childhood taught her to “run and hide”, mistrust authority figures and to be invisible to survive.

12. The Applicant became a licensed practical nurse (“LPN”) in 1982. She worked as an LPN until her daughter was born in 1992. She felt that she wanted a challenge so when her

daughter was four years old, in 1996, she took full-time studies at Douglas College to become a registered nurse.

13. In October/November 2008, the Applicant left an abusive relationship. She and her daughter left their home on short notice and were homeless. She and her daughter moved in with her sister.

March 2009: Failure to renew

14. The Applicant testified that she failed to renew her license in March of 2009. She provided the College with a cheque to pay her registration fees when she was contacted by the College. However, the cheque bounced (i.e., was dishonoured due to insufficient funds).

15. The Applicant testified that she entered another abusive relationship following soon after the break-up in 2008. Her partner took her bank card and stole \$1000 from her. Her cheque bounced because these funds were taken from her account without her knowledge.

16. The Applicant had been practising without holding current practising registration since March 1, 2009. On June 16, 2009, the Applicant participated in a consensual resolution process with the College's Inquiry Committee.

Disclosure pkg. pg. 5-12

17. On November 6, 2009, the Applicant signed a consent agreement (the "2009 Consent Agreement") and undertook to complete various requirements, including telling her employers of the terms of the agreement, submitting a performance appraisal within six months, and submitting an essay on how she would meet professional standards in the future.

Disclosure pkg. pg. 13-18

18. The Applicant testified that she previously did not fully appreciate the College's role as the regulator of nurses. She stated that her education had little focus on the College or its role. She stated that she knew there were practice standards and that the College had the ability to take away her license. She did not trust the College.

19. On September 30, 2010, the Inquiry Committee concluded that the Applicant was in breach of the 2009 Consent Agreement. A *Report to the IC*, dated September 27, 2010, found that the Applicant failed to complete several aspects of the agreement, including disclosing the terms to her managers and submitting a performance appraisal after six months of practice.

Disclosure pkg. pg. 29-48 and 50-51

20. She testified that she made efforts to comply with the agreement and receive her practice reviews but was ignored. She spoke in-person with [a manager] and went to the union. She testified that she was told by the union that the best thing to do was to document everything and to contact her superiors by email. The Applicant testified that she did that, but eventually gave up.

21. The Applicant testified that she chose to ignore the consent agreement due to the stress of being homeless, raising her teenage daughter, and being in another abusive relationship. She felt overwhelmed by her personal life.

22. The Applicant testified that she felt it was “wrong to ignore the consent agreement – I wasn’t meeting my standard for registration to protect me, my employer and most important the public.”

23. In November 2010, [a health authority] provided a performance appraisal to the CRNBC.

Disclosure pkg. pg. 60-67

24. In February 2013, the Applicant’s manager raised concerns with LEAP (BCNU’s Licensing, Education, Advocacy and Practice program) about completing the requirements in her consent agreement and her attendance record at work. The Applicant met with a representative from CRNBC and advised that she thought she had met the requirements and that her attendance was a result of asthma, back pain and migraines which were being treated. On February 27, 2013, the Applicant signed an agreement (the “2013 Consent Agreement”). The 2013 Consent Agreement required, among other things, an essay within four months, reflecting “my review of the Professional Standards expected of Registered Nurses; the CRNBC nursing practice consultation; and the learning obtained from the consultation. The essay will demonstrate my understanding of the difficulties experienced in meeting Professional Standards and describe how Professional Standards will be met in the future....”

Disclosure pkg. pg. 107-125

25. Correspondence between the College and the Applicant shows that the essay due under the 2013 Consent Agreement was still outstanding as of April 30, 2016, and the College intended to review her matter again in three months.

Disclosure pkg. pg. 190-191

Substance abuse and addiction

26. The Applicant testified that she was introduced to cocaine through her partner [deleted] in 2010. She stated that she did not know about his history of substance abuse or addiction. She stated that she developed an addiction and that eventually she and her partner were using cocaine on a daily basis.

27. The Applicant testified that she never used cocaine while at work. The Applicant testified that she would also use sedatives, Gravol, and alcohol. She testified that these substances made her feel nothing, which was what she needed at the time.

28. The Applicant testified that she was not willing to contact drug dealers directly. She stayed with her partner so that he would procure cocaine for her.

29. The Applicant testified that she overdosed on narcotics and spent three days in the hospital. She stated that following her release, she was still in denial about her addiction.

August 3, 2016: Conduct leading to a complaint

30. On October 11, 2016, CRNBC received a complaint from the Applicant’s employer, and more specifically the Manager of Clinical Services, Medicine, at [the Hospital], regarding her conduct on August 3, 2016. The Complaint concerned her fitness to practice, stating that on August 3, 2016, the Applicant exhibited signs of being groggy, a lack of concentration and slurred speech.

Disclosure pkg. pg. 220-221

31. The Complaint also raised concerns about 4 mg of hydromorphone which was missing during her shift, although an audit identified several discrepancies that occurred on August 3, 2016.

Disclosure pkg. pg. 220-221

32. The Applicant testified that on the night of August 2, 2016 she had been using narcotics and had not slept for several days.

33. The Applicant testified that on August 3, 2016, she overslept for work, but her friend woke her up and convinced her to go to her shift. She took Benadryl and allergy medication but was exhausted. She testified that while at work she was falling asleep at her cart.

34. The Applicant testified that on August 3, 2016, she was reported to her manager. Her manager told her to leave the ward immediately. She was not permitted to sign off on any of her charts, so she asked her colleague to sign off on the medications that she had provided to patients and her wastage. When she arrived home, she called her friend to confirm that the medication was signed off.

35. The Applicant testified that August 3, 2016 was her last day before going on vacation. She testified that her manager said they would discuss the events of August 3, 2016 on her return.

36. She testified that she did not misappropriate any narcotics on August 3, 2016, but that she had taken wastage on other occasions. She testified that she took “mostly hydromorphone.” She said that she justified it as “it was garbage” and that she was not denying any patient medication.

37. The Applicant testified that she never took narcotics for herself. She stated that she only took narcotics for her partner.

38. She testified that she now recognises taking wastage as theft but did not at the time.

November 2016: Independent Medical Examination

39. The Applicant testified that she was referred to Dr. Yang in September 2016.

40. The Applicant received an independent medical examination from Dr. Yang. The report, dated November 29, 2016, diagnosed the Applicant with a substance use disorder for alcohol, sedatives and cocaine. Dr. Yang found that the Applicant was not fit to practice at that time and recommended abstinence-based treatment followed by medical monitoring.

Disclosure pkg. pg. 279-283

41. The Applicant attended Homewood Health Centre (“Homewood”) in January 2017. She testified that at that point she was still in denial about her substance abuse addiction.

42. Dr. Yang assessed the Applicant again in an Independent Occupational Addiction Medicine Re-evaluation, dated April 17, 2017. He found her unfit to practice and noted two non-compliant outcomes from her relapse prevention agreement (“RPA”).

Disclosure pkg. pg. 284-289

43. The Applicant testified that she relapsed twice after leaving Homewood. She said that at that point she realised that she could not have just one drink.

44. Dr. Yang assessed the Applicant again in an Independent Occupational Addiction Medicine Re-evaluation, dated June 8, 2017. He found her unfit to practice and recommended further abstinence based residential treatment in a program specifically for women.

Disclosure pkg. pg. 290-293

45. The Applicant attended a residential treatment program at Westminster House ("Westminster") from January 17, 2018 to April 17, 2018. After successfully completing the program on April 17, she entered into a 3-year RPA with Alliance Medical Monitoring.

46. The Applicant testified that her clean date is January 18, 2018.

47. The Applicant testified as to the admittance program at Westminster and process to ensure that residents did not bring in illicit substances. She testified that she was tested upon arrival and that she tested positive for alcohol and only alcohol. She said that she expected to test positive because she had had her last drink before attending Westminster. She testified that she was paired with a buddy at Westminster and was never alone.

48. She testified that she was retested again sometime after arriving at the facility. She stated that she agreed to being tested again because she "was being watched 24/7."

49. She testified that she was told that she tested positive for fentanyl. She said that the administrators "insisted" that on the day that she tested positive, between 6 am and 10 am she had left her buddy, bought fentanyl and returned in time for the 10 am meeting.

50. The Applicant testified that she has never used fentanyl.

51. The Applicant testified that she felt there were a number of problems with the administrators' hypothesis and positive test. She testified that she had explained that any fentanyl bought on the street would have been laced with other illicit substances. She testified that she would not have gone out to get drugs because she would never contact a drug dealer directly and relied on her partner for drugs. She testified that she had no access to money, bank cards or cell phone to purchase narcotics.

52. She testified that she was told that she could stay in the program if she admitted to taking narcotics. She testified that she really wanted to stay in the program and that she feared relapsing again if she left. She testified she admitted to drug use to stay in the program.

53. She testified that she completed the program. After 90 days she stayed at a transition house for another month to ensure that she was safe from relapsing.

54. The Applicant testified that she made efforts to not be around people using drugs. She ended her relationship with her partner and a no-contact order was put in place. She testified that she blocked all communication from him.

55. Dr. Yang's Independent Occupational Addiction Medicine Re-evaluation of the Applicant, dated May 23, 2018, found her fit to return to practice on a graduated basis. Dr. Yang provided recommendations which included continued compliance with the RPA.

Disclosure pkg. pg. 306-312

56. Alliance Medical Monitoring reported a non-negative test result for the Applicant for a test that occurred on September 19, 2018.

Disclosure pkg. pg. 314

57. The Applicant testified that she tested positive for methadone in September of 2018. She stated that she has never used methadone. She was unsure how she could have tested positive.

58. She testified that she asked her doctor about the positive result. She asked her doctor whether the positive result could have been produced from drinking out of a glass that her nephew had used for his methadone. She testified that her doctor told her this was “not probable.”

59. She testified that she had “broken the chain” and had not observed the entire testing process that day. She testified that now she sits and watches the entire testing process.

60. Dr. Yang assessed the Applicant again in an Independent Occupational Addiction Medicine Re-evaluation, which is documented in a report dated November 10, 2018. He found that she must demonstrate full compliance with monitoring for the month of November before she can return to work. He recommended a gradual return to practice, with overtime and overnight shifts to be avoided for the first eight weeks.

Disclosure pkg. pg. 323-331

61. On August 8, 2019, the College wrote to the Applicant to advise that it had been informed that the Applicant failed to attend biological testing as scheduled on Wednesday August 7, 2019. Therefore, the Applicant was critically non-compliant with the terms of her RPA.

Disclosure pkg. pg. 358-359

62. The Applicant stated that she recognised she made a serious mistake in failing to attend the urine testing on August 7, 2019. She submitted that she worked both night and day shifts during the preceding six days and that it was unusual for her to work so many hours. She checked the Alliance Medical Monitoring app on Tuesday, August 6 and saw that she had a test the next day. She was hosting a birthday party for her daughter that day and forgot to attend the monitoring.

Letter from Mr. Eastwood to Karen Turner, dated
August 23, 2019

63. The Applicant testified that she had overexerted herself in August 2019.

Recovery Process and Involvement

64. The Applicant testified that since being clean she feels much better and is better able to deal with stress.

65. The Applicant testified that she has a sponsor who is a former-addict and current nurse, which she finds helpful because she understands the difficulties of returning to professional practice.

66. She testified she recognised that monitoring was not in itself keeping her sober. She testified that she felt that her sponsor had helped her to find the balance she needed. She stated that “it isn’t monitoring that keeps me clean, but that it’s my desire to be clean.”

67. She testified that she has been going to sweat lodges with her relatives and that she has found that to be a healing experience.

68. She testified that since recovering, she has worked and volunteered with those experiencing addictions. She works as a support worker for a social services organisation, as a caregiver for a nursing provider. She also works shifts as a designated driver. In written submissions, her counsel clarified that at the social services organisation, the Applicant provides support for women in a residential setting in several programs: a program that assists women struggling with addiction and criminal justice issues; a program that assists 12-18 year-old mothers with addiction to learn parenting skills; and with a program that assists indigenous young women.

69. She testified that her work in addictions makes her think every day about her relationship with substance abuse and addictions. She stated that it has taken her one day at a time to get past thoughts of using.

70. She testified that she meditates and does yoga to re-centre and focus on being present.

71. The Applicant testified that for the most part, the people that she interacts with are not using or are in programs. She stated that she does not tolerate people who are using because she “needs to protect her recovery.”

72. The Applicant testified that substance use affected her work and impacted both her patients and public safety. She acknowledged that it had a negative impact on the public perception of nurses and the nursing profession.

73. The Applicant testified that she had a plan in place in case someone close to her was abusing substances or experiencing addictions. She had discussed the plan with her sponsor.

74. The Applicant testified that if she felt triggered by her community work, she would discuss how to stay safe with her sponsor.

75. The Applicant testified that she recognised her duty to report any colleagues who were experiencing substance abuse. She stated that she did a formal report on her colleague who had documented her wastage for her.

C. Good character and fitness

76. Under College Bylaw s. 230(2), an applicant must provide, among other things, evidence satisfactory to the Registration Committee that the applicant is of *good character* (paragraph (a)) and *fit to engage in practice* (paragraph (b)). Under Bylaw s. 259(5), the good character and fitness requirements apply to an applicant for reinstatement of registration as a practising registered nurse.

77. If an applicant meets the conditions or requirements for registration, but HPA s. 20(2.1)(b.1) applies (which counsel for the applicant has conceded at pages 2 and 7 of his submissions dated September 24, 2019), the Registration Committee, under HPA s. 20(2.1), “may refuse to grant registration, may grant registration for a limited period specified for the registrant by the registration committee, or grant registration and impose limits or conditions on the practice of the designated health profession by the person....”

The fitness to practice requirement

78. Fitness to practice refers to the applicant’s physical, mental, and emotional fitness to deliver safe, competent, and ethical care. An applicant may be unfit to practice if the applicant suffers from a physical, cognitive, psychological, or emotional condition, including any

substance use disorder relating to alcohol or drugs, that is impairing the applicant's ability to practice.

79. In addition to fitness being a requirement for registration, fitness is an ongoing requirement for practice by registrants. For example, if a registrant is admitted to a hospital or a private hospital for treatment for addiction to alcohol or drugs and is unable to practise, the treating physician is obliged, under section 32.3 of the HPA, to report as to whether the registrant is fit to continue to practise. The Registrar may treat such a report as a complaint. Furthermore, the Inquiry Committee may, under section 33(4)(e) of the HPA, investigate a registrant about any physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to practise.

80. The College has a duty, under section 16 of the HPA, to serve and protect the public, and to exercise its powers and discharge its responsibilities in the public interest. The College therefore sets conditions or requirements for registration as part of serving and protecting the public. What the College requires, however, of applicants who suffer, or have suffered from, a substance use disorder must always be reasonably justifiable.

81. A substance use disorder is a form of "disability" under the *Human Rights Code*, R.S.B.C. 1996, c. 210 (the "Code"). Under section 14 of the Code, an occupational association must not exclude any person from membership, or otherwise discriminate against any person, because of physical or mental disability. The College must accommodate an applicant's disability unless accommodation may result in undue hardship. Undue hardship may, however, arise from excessive cost, or an unacceptable level of risk to the public: *British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, [1999] 3 S.C.R. 868 (S.C.C.).

The good character requirement

82. Good character refers to a combination of personal qualities and traits, such as

- a. moral or ethical strength;
- b. integrity, candour, empathy, and honesty;
- c. an appreciation of the difference between right and wrong; or
- d. the moral fibre to do that which is right, no matter how uncomfortable the doing may be and not to do that which is wrong no matter what the consequences may be to oneself.

Alfano v. Law Society of Upper Canada, 2010 ONLSP 36 at paras. 5 and 6.

83. A regulator may presume an applicant's good character in the absence of evidence to the contrary, but where an applicant has apparently engaged in wrongful conduct in the past, the applicant bears the burden of refuting or qualifying that past conduct or showing she has reformed. The requirement for good character does not involve a standard of perfection. Further, since character may change over time, the applicant's burden is to satisfy the Registration Committee that she is of good character at time of the application for registration.

D. Analysis and conclusions

84. **Fitness to practice:** The issue of the Applicant's fitness to practice arises from a substance use disorder, involving alcohol, sedatives and cocaine, starting in 2010. The Panel

accepts that her disorder arose from her relationship with her partner, for whom she admits she also took narcotics wastage, mostly hydromorphone.

85. No issue exists that following events on August 3, 2016, which led to the Complaint, the Applicant underwent an independent medical examination. Dr. Yang diagnosed the Applicant with a substance use disorder for alcohol, sedatives and cocaine, and concluded she was not fit to practice at that time.

86. The Panel accepts that the Applicant attended at several treatment programs in 2017 and 2018, with several relapses (and one positive test result for fentanyl, which the Applicant denies using). In a report dated May 23, 2018, Dr. Yang concluded the Applicant was fit to return to practice on a graduated basis. Following a positive test result in September 2018 (for methadone, which the Applicant denies using), Dr. Yang reassessed the Applicant, and in a report dated November 10, 2018, he required full compliance with monitoring for November before a gradual return to practice. The Applicant failed to attend testing scheduled for August 7, 2019, but the Panel accepts, on the evidence before it, that she had overexerted herself and had forgotten to attend the testing. The Applicant admitted to having made a serious mistake.

87. Given the evidence before the Panel, including the Applicant's testimony about her steps to gain insight about her substance use disorder, and about her work with others experiencing addictions, the Panel accepts that the Applicant is currently fit to practice. The Panel has decided, however, that the public interest is best served by the Panel imposing limits or conditions on the Applicant's practice, which are detailed below.

88. **Good character:** The issue of the applicant's good character arises from two issues. First, the Applicant failed to satisfy requirements of the 2009 Consent Agreement, by her apparently failing to disclose its terms to her manager, failing to submit a performance appraisal after six months of practice, and failing to satisfy an essay requirement. Second, the Applicant was less than forthright during the investigation, due to her failing to reveal she was misappropriating drugs for her partner until part way through the investigation.

89. The Panel accepts, however, that the Applicant made some efforts to obtain a performance appraisal, and that [the health authority] eventually provided a performance appraisal in November 2010. The Panel also accepts that the Applicant ignoring her obligations arose from special factors, including her family situation in 2009, and a mistrust of authority arising from her upbringing and her experiences as an Indigenous child. The Panel accepts her admission that she now understands she was wrong to ignore her obligations, and that she was forthright about her misappropriating wastage during the hearing.

90. The bylaws do not require that the Applicant meet a standard of perfection. The Panel is satisfied the Applicant is currently of good character. That having been said, the Panel may still, under section 20(2.1)(b.1) of the HPA, impose limits or conditions that renew her outstanding obligations, so that she must demonstrate she will meet her professional obligations: "...proof of good character on a balance of probabilities provides no guarantee against recidivism. Terms and conditions can both assist the applicant and protect the public..." And further: "...terms and conditions might be imposed where the hearing panel is satisfied that the applicant is currently of good character, but that public confidence in the regulation of [professionals] would be enhanced through such terms and conditions." *Law Society of Upper Canada v. Levenson*, 2009 ONLSHP 98 at paras. 81 and 82.

91. **Limits and conditions.** The Panel has decided to grant registration subject to the following limits and conditions on practice (the “Limits and Conditions”):

- a. The Applicant will be granted practising RN registration once she has met conditions set out within paragraphs (b) and (c) below.
- b. The Applicant must regularly meet with a College nursing practice consultant selected by the College (the “Practice Consultant”), to discuss the conduct issues raised in the Reasons for Decision and Order of the Registration Committee, her time management and her responsibility planning (the “Consultant Meetings”), for a first meeting, and for a period of two years thereafter. The Applicant will receive practising RN registration only after she has attended at least one Consultant Meeting and has scheduled Consultant Meetings for at least a six-month period, which Consultant Meetings must occur at a frequency set by the Practice Consultant at her discretion.
- c. The Applicant will only receive practising RN registration after she has provided, to the Registration Committee, an essay on practice and ethical standards which demonstrates the Applicant’s understanding of what standards she has previously breached, and how she will avoid such breaches in the future (the “Essay”). The Essay must be 3-5 pages in length, double-spaced.
- d. For a period of two years after recommencing practice,
 - i. the Applicant may not practice in a palliative care unit, a hospice, or a community palliative care facility where narcotics are onsite (the “Practice Setting Restriction”); and
 - ii. subject to condition (e) below, the Applicant may not in any practice setting,
 1. hold Omnicell/Pyxis codes or their equivalents;
 2. carry the keys of a narcotic cupboard or trolley; or
 3. handle, dispense or deal with the wastage or breakage of opioids or sedatives(collectively the “Medication Handling Restrictions”).
- e. If, after one year, the Registrar is satisfied that the Applicant has complied with the Medication Handling Restrictions, based on information provided by the Applicant’s employer(s), the Applicant may handle and dispense opioid and sedative medications during her second year, but only when such activities are clearly supervised or witnessed by another registrant of the College who is a registered nurse or nurse practitioner, and such activities are appropriately recorded, in writing, in the equivalent of a narcotics log book at work.
- f. Whereas the Applicant is a party to an Alliance Medical Monitoring agreement dated April 18, 2018 (the “Monitoring Agreement”), that Monitoring Agreement shall be, along with any amendments or replacement agreements, considered a schedule of the Panel’s order.

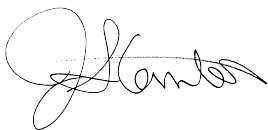
- g. The Registration Committee retains a supervisory jurisdiction to extend, reduce, or amend the Limits and Conditions, and may exercise that jurisdiction upon any of the following events occurring:
 - i. two consecutive failures to comply with requirements of the Monitoring Agreement;
 - ii. two failures to comply with any requirements of the Monitoring Agreement occurring within 30 days of each other; or
 - iii. any breach of any requirement of this order, including any failure to attend a Consultant Meeting without good reason, and any breach of the Practice Setting Restriction or the Medication Handling Restrictions
 (collectively the “Triggering Events”).
- h. Where the Applicant attends any support group meetings beyond the Mutual Support Group Meeting Attendance required by the Monitoring Agreement, the Applicant must track her attendance at such additional support group meetings in the same manner she must track her attendance under the Monitoring Agreement, and provide such documentary evidence to the Registrar of the College, or to the Registration Committee, on demand.

92. Respecting the Registration Committee’s jurisdiction to revisit the Limits and Conditions, the committee is aware of the general principle that once a tribunal makes a final decision, it is ordinarily *functus officio*, meaning its mandate has expired and it cannot return to reverse or revise the decision. However, limits or conditions imposed under section 20(2.1) of the HPA may have to address developing issues that relate to an applicant’s continuing physical, cognitive, psychological, or emotional conditions.

93. Section 20(2.1) of the HPA is clearly not intended to grant the Registration Committee any unreasonably “permanent” supervisory jurisdiction over an applicant, in place of the Inquiry Committee and the Discipline Committee. Practically, however, the Registration Committee is the body that is familiar with the Applicant’s matter and that must have a power to adjust the limits or conditions it has imposed, so that it may effectively and efficiently address unpredictable developments, like a relapse. While courts are also subject to the doctrine of *functus officio*, courts that issue permanent or perpetual injunctions still retain an ongoing supervisory jurisdiction to alter even “final” injunction orders: *Lever Brothers, Limited v. Kneale and Bagnol*, [1937] 2 K.B. 87 (C.A.). The Registration Committee considers an ongoing supervisory jurisdiction over limits and conditions a necessarily implied power arising from its express power to impose limits or conditions under section 20(2.1) of the HPA.

94. **Publication.** The Panel has not yet made any decision respecting publication. The Applicant may provide any submissions concerning publication within 30 days of the date of this order.

Dated for reference this 27th day of November 2019.



Victoria, BC

November 27, 2019

Name (Jocelyn Stanton (Chair))	Place	Date
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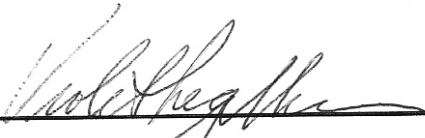
Name (Violet Tregillus)	Place	Date
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Name (Tracy Hoot)	Place	Date
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	<i>Quesnel, BC</i>	<i>November 27/19</i>
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Name (Tracy Hoot)	Place	Date
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Name (Violet Tregillus)	Place	Date
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	Kamloops	November 28/2019
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Name (Tracy Hoot)	Place	Date
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**IN THE MATTER OF
THE BRITISH COLUMBIA COLLEGE OF NURSING PROFESSIONALS
AND UNDER THE HEALTH PROFESSIONS ACT,
R.S.B.C. 1996, chapter 183 (the “Act”)**

BETWEEN:

THE BRITISH COLUMBIA COLLEGE OF NURSING PROFESSIONALS OF
(the “College” or “BCCNP”)

AND:

[*THE APPLICANT*]

(the “Applicant”)

Hearing Panel of the Registration Committee (the “Panel”):

Jocelyn Stanton (Chair)
Violet Tregillus
Tracy Hoot

Counsel for the Applicant:

Peter Eastwood

Independent Legal Counsel for the Panel:

Lisa C. Fong, Q.C.
Lauren Riva

**REASONS FOR PUBLICATION
OF THE REGISTRATION COMMITTEE**

1. After the Panel provided its registration decision of November 27, 2019 (the “Decision”), the Applicant applied in writing on January 10, 2020 that any publication of the Decision not identify the Applicant, due to sensitive personal information, including information about her mental health and substance addiction issues. For the reasons set out below, the Panel grants the Applicant’s application.
2. The Decision sets out information about the Applicant’s history and medical conditions. For brevity, the Panel does not repeat that information, but it has made its decision with a view to the Decision. In brief, the Panel granted the Applicant registration, with limits and conditions to address, among other issues, her having suffered a substance use disorder.

Publication by the Registration Committee

3. The Registration Committee does not currently have a written policy on when or to what extent it will publish decisions about applications for registration. The Registration Committee recognizes, however, that the College’s statutory duty under s. 16 of the *Health Professions Act*,

R.S.B.C. 1996, c. 193 (the “HPA”), to serve and protect the public, incorporates values of transparency and accountability to the public. While s. 53 of the HPA generally requires that the Registration Committee preserve confidentiality, that duty is subject to disclosure necessary for the College to perform its duties, which include its duty to serve the public. Transparency of final decision-making by the Registration Committee is clearly in the public interest.

4. Section 39.3 of the HPA, while not applying to the Registration Committee, addresses a tension between public transparency and registrant privacy in the context of discipline. Section 39.3 requires public notice of specific College actions. It also requires, however, that the College withhold information that could reasonably be expected to identify the registrant, or personal health information of the registrant, where the registrant admits or the discipline committee determines the registrant suffers from “a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to practise the designated health profession”.

5. The Applicant has requested anonymity in any publication of the Decision, based in part on the stigma associated with substance abuse disorders. She submits that anonymity is consistent with the aim of provisions like HPA s. 39.3(4), to protect the privacy interests of registrants with health conditions.

6. Given that the College’s Board and the Registration Committee have not yet implemented any written policy on publication of decisions of the Registration Committee, this decision of the Panel should not be considered a precedent.

Considerations

7. The Applicant submitted, through legal counsel, that the Decision contains extremely sensitive personal information. During the Hearing she was very open about difficult experiences throughout her life, including but not limited to struggles with mental health and substance abuse. She submitted that having her name published could negatively impact her ability to move forward in her current and future employment, as stigma associated with substance abuse disorders could taint her reputation in the community.

8. The Panel recognised that stigma, while not necessarily relevant in every case, was a factor it should consider in this case, and that a realistic possibility of stigma relating to the Applicant’s health conditions favoured anonymity.

9. The Panel considered that publication of the Decision, without the Applicant’s identity, would meet the Registration Committee’s objectives of transparency and accountability. Anonymous publication would still allow the public and registrants to understand the circumstances and the legal issues relating to the Decision.

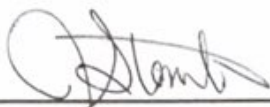
10. The Panel considered the fact that the limits and conditions on the Applicant’s registration would still be accessible to the public through the College’s public registry. The registry would allow any potential employers and members of the public dealing specifically with the Applicant to know about her registration status.

Decision

11. The Panel directs as follows, with respect to any publication of the Decision, including these reasons, and with respect to any public summaries:

- a. All references to the Applicant's name will be redacted or altered to "the Applicant" or "the Registrant";
- b. Names of other persons or organizations, including employers, that if published could reasonably allow the Applicant to be identified, will be redacted or altered to refer to their relationship to the Applicant.

Dated for reference this 6 day of February 2020.

 Victoria, BC Feb 6, 2020

Name (Jocelyn Stanton (Chair)) Place Date

Name (Violet Tregillus) Place Date

Name (Tracy Hoot) Place Date

- a. All references to the Applicant's name will be redacted or altered to "the Applicant" or "the Registrant";
- b. Names of other persons or organizations, including employers, that if published could reasonably allow the Applicant to be identified, will be redacted or altered to refer to their relationship to the Applicant.

Dated for reference this ____ day of February 2020.

Name (Jocelyn Stanton (Chair)) Place Date

Violet Tregillus *Queensland BC* *Feb 2, 2020*

Name (Violet Tregillus) Place Date

Name (Tracy Hoot) Place Date

- a. All references to the Applicant's name will be redacted or altered to "the Applicant" or "the Registrant";
- b. Names of other persons or organizations, including employers, that if published could reasonably allow the Applicant to be identified, will be redacted or altered to refer to their relationship to the Applicant.

Dated for reference this _____ day of February 2020.

Name (Jocelyn Stanton (Chair))	Place	Date
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Name (Violet Tregillus)	Place	Date
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<u>Tracy Hoot</u>	<u>Kamloops</u>	<u>Feb 4/2020</u>
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Name (Tracy Hoot)	Place	Date
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