

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA also known as
COLLEGE OF REGISTERED NURSES OF ALBERTA (the “**College**”)

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF **SIOBHAN ORIAIFO**, REGISTRATION **#106,399**

AS A RESULT OF A HEARING HELD BEFORE

THE HEARING TRIBUNAL

OF THE COLLEGE

11120 178 STREET

EDMONTON, ALBERTA

ON

August 31, 2022

INTRODUCTION

A hearing was held on August 31, 2022, via Microsoft Teams videoconferencing by the Hearing Tribunal of the College of Registered Nurses of Alberta (the “College”) to hear a complaint against Siobhan Oriaifo, registration #106,399.

Those present at the hearing were:

a. Hearing Tribunal Members:

Bonnie Bazlik, RN Chairperson
 Terrie Tietz, RN
 David Rolfe, Public Representative
 Doug Dawson, Public Representative

b. Independent Legal Counsel to the Hearing Tribunal:

Mary Marshall

c. CRNA Representative:

Kate Whittleton, Conduct Counsel

PRELIMINARY MATTERS

Conduct Counsel confirmed that there were no objections to the composition of the Hearing Tribunal or to the Hearing Tribunal’s jurisdiction to proceed with the hearing.

Conduct Counsel advised that neither the Registrant nor anyone on her behalf had contacted CRNA with respect to the hearing.

The Chairperson noted that pursuant to section 78 of the *Health Professions Act*, RSA 2000, c. H-7 (“HPA”), the hearing was open to the public. No application was made to close the hearing. Conduct Counsel confirmed that there were no members of the public present.

Conduct Counsel made two preliminary applications. The first was an application under section 79(6) of the HPA to proceed with the hearing in the absence of the Registrant.

Conduct Counsel reviewed section 79(6) of the HPA, which states:

79(6) Despite section 72(1), if the investigated person does not appear at a hearing and there is proof that the investigated person has been given a notice to attend the hearing tribunal may

- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act or decide on the matter being heard in the absence of the investigated person.

Conduct Counsel reviewed section 120(3) of the HPA which provides that service of a notice is sufficient if served by personal service on the person or by certified or registered mail at that person's address as shown on the register or record of the registrar. Conduct Counsel also reviewed Bylaw 23 which provides that service shall be sufficient if a notice is published at least twice in a local newspaper circulating at or near the address last shown for that person in the CRNA Records.

An Affidavit sworn by Amy Payne was entered as Exhibit 2. Ms. Payne outlines the various attempts at service of the Notice of Hearing on the Registrant, as well as attempts to contact the Registrant with respect to the hearing. Ms. Payne made an attempt to serve the Registrant with the referral to hearing documentation on April 14, 2022 by courier at the address provided by the Registrant when she applied for registration with CRNA. The letter was returned to CRNA by the courier and the envelope indicated that it was returned due to "unable to deliver – receiver moved". Ms. Payne emailed the Registrant on April 14, 2022 at the email address provided by the Registrant when she applied for registration. Ms. Payne did not receive a reply from the Registrant to her email. The Registrant has never provided alternate contact information.

Ms. Payne attempted to reach the Registrant by telephone and left a voicemail at the number provided to CRNA by the Registrant when she applied for registration. Ms. Payne did not receive a call back in response to her voicemail message. Ms. Payne then published a notice in the Calgary Herald daily newspaper in accordance with Bylaw 23.

Conduct Counsel brought a second application to have the evidence of its witnesses entered by way of Affidavit. Both witnesses are CRNA employees. Conduct Counsel submitted that the evidence was reliable and relevant. It was evidence sworn before a Commissioner for Oaths, and so was reliable. Conduct Counsel noted that section 79(5) of the HPA provides that evidence may be given before the Hearing Tribunal in any manner that it considers appropriate. Conduct Counsel advised that each witness was able to attend if the Hearing Tribunal wished to ask any questions after having reviewed the Affidavit evidence.

The Hearing Tribunal questioned Conduct Counsel about service by publication, and specifically the dates of publication in the Calgary Herald as they relate to the date set out in the Affidavit of Ms. Payne. Conduct Counsel submitted one request goes to the Calgary Herald for publication on two occasions. There are not two requests for service via publication. As such, the Affidavit only references the May 6, 2022 date although the notice appeared in the Calgary Herald on May 6, 2022 and May 13, 2022. This is strictly in accordance with Bylaw 23 that requires publication in the newspaper one week apart.

The Hearing Tribunal considered the application to proceed in the Registrant's absence and determined that it should proceed for the following reasons. Service of the Notice to Attend a Hearing was made in accordance with the requirements of the HPA and Bylaw 23. CRNA made several attempts, over and above the requirements of the HPA, to contact the Registrant. Members are responsible for providing current contact information to CRNA so that CRNA can contact them. It is also the responsibility of members to review mail and email communications from CRNA. The Hearing Tribunal found that it was appropriate in this case to proceed in the absence of the Registrant. There was no indication that an adjournment would permit CRNA to communicate with the Registrant or that the Registrant would participate in the hearing at a later date. In addition, CRNA's mandate to ensure the public is protected requires that hearings be held in a timely manner.

The Hearing Tribunal further determined that it would allow the evidence to be entered by way of Affidavit. Both witnesses were available to give evidence if there were any further questions after having reviewed the Affidavit evidence.

ALLEGATION

The Allegation in the Notice to Attend a Hearing is as follows:

1. On or after November 1, 2021, the Registrant failed to comply with an order granted under section 82 of the *Health Professions Act*, RSA 2000, c H-7 ("**HPA**"), being the Order of the Hearing Tribunal dated May 19, 2020 (the "**Order**"), when she failed to pay a fine in accordance with paragraph 2 of the Order, on or before October 31, 2021 contrary to section 1(1)(pp)(viii) of the *HPA*.

EVIDENCE

The following documents were entered as Exhibits:

EXHIBIT	DESCRIPTION
Exhibit #1:	Book of Authorities
Tab 1:	HPA Excerpts
Tab 2:	Bylaw 23
Tab 3:	<i>Fitzpatrick v. Alberta College of Physical Therapists</i> , 2012 ABCA 207
Tab 4:	<i>Jaswal v Medical Board (Nfld)</i> , 1996 CanLII 11630 (NLSC) (excerpt)
Tab 5:	<i>Kuny v College of Registered Nurses of Manitoba</i> , 2018 MBCA 21
Tab 6:	<i>Alsaadi v Alberta College of Pharmacy</i> , 2021 ABCA 313 (excerpt)
Tab 7:	<i>Al-Ghamdi v College of Physicians and Surgeons of Alberta</i> , 2020 ABCA 71 (excerpt)
Tab 8:	Jim Casey, Regulation of Professions in Canada (excerpt)
Tab 9:	CRNA Decision - November 25, 2014
Tab 10:	CRNA Decision - April 21, 2015
Exhibit #2:	Affidavit of Amy Payne sworn August 29, 2022
Exhibit #3:	Affidavit of Darlene Ricard sworn August 3, 2022
Exhibit #4:	Affidavit of Tabitha Potts sworn August 22, 2022
Exhibit #5:	Affidavit of Amy Payne sworn August 31, 2022
Exhibit #6:	Practice Standards for Regulated Members Effective April 2013
Exhibit #7:	Code of Ethics for Registered Nurses - 2017 Edition

EXHIBIT	DESCRIPTION
Exhibit #8:	Proposed Order
Exhibit #9:	Estimated Statement of Costs
Exhibit #10:	Legislative Excerpts Re: Reinstatement

SUBMISSIONS ON THE ALLEGATION

Submissions by Conduct Counsel:

Conduct Counsel submitted that this matter would proceed as a contested hearing since the Registrant is not in attendance, and is deemed to deny the Allegation. The Notice to Attend a Hearing was read into the record.

This hearing concerns compliance with the Hearing Tribunal's order dated May 19, 2020 ("**the May 19, 2020 Order**"). Conduct Counsel reviewed the Affidavit sworn by CRNA's Compliance Coordinator which shows that the Registrant has not complied with any aspect of the May 19, 2020 Order (Exhibit 3). Conduct Counsel reviewed the Affidavit sworn by a legal assistant with CRNA which includes correspondence advising the Registrant of her noncompliance, of the referral of her file to a hearing, and the sanctions that will be recommended by the Complaints Director at the hearing (Exhibit 4).

The burden of proof is on the Complaints Director on a balance of probabilities. The Complaints Director must prove the Allegation, and that it constitutes unprofessional conduct.

Conduct Counsel made submissions regarding service of the May 19, 2020 decision which provides that payment of a fine must occur within a specified time following service of the decision. As such, service is a trigger for payment of the fine.

There were attempts to serve the May 19, 2020 decision including service by registered mail. Ultimately there was publication of a notice in the Calgary Herald on June 12, 2020, but there is no information about the second publication date. These events occurred more than two years ago. Conduct Counsel submitted that service in accordance with the HPA was achieved, but service in accordance with the bylaw was partially achieved. The former Hearings Director concluded that service was good and sufficient. The May 19, 2020 decision has been published on the CRNA website since July of 2020.

Conduct Counsel submitted that there were two options for moving forward with the hearing. The first option is to deem service to be good and sufficient. The May 19, 2020 decision was served in accordance with the HPA. More than two years have passed, and the decision has been publicly available on the College website. There have been multiple attempts to contact the Registrant.

The second option is to proceed notwithstanding the defect in service based on the terms of the decision. The May 19, 2020 Order provided as follows:

Siobhan Oriaifo shall pay a fine to CARNA in the amount of **\$2,000**, payable upon the following terms: four payments of \$500.00 payable every three months from the date of service of this Decision, payable over a one year period or upon such further payment

plan that is acceptable to the Complaints Director, not to exceed 24 months from the date of this Decision.

The reference to service of the decision is not an impediment for two reasons. It has been more than 24 months since the date of the decision, and that is the ultimate deadline. As well, the date of October 31, 2021 is the deadline that was given on behalf of the Complaints Director. The Complaints Director has the discretion to manage compliance. The October 31, 2021 deadline is found in the Affidavit of Darlene Ricard, and that deadline was set out to the Registrant in April 2021 (Exhibit 3).

The Allegation references a deadline of October 31, 2021, and that deadline was clearly set out to the Registrant in April 2021. The October 31, 2021 deadline was given pursuant to the Complaints Director's discretion to manage compliance under the May 19, 2020 Order and under the HPA.

The Hearing Tribunal asked Conduct Counsel about the last confirmed communication with the Registrant by email.

Conduct Counsel submitted that communication with the Registrant has been through the Hotmail address that was provided to the College by the Registrant. The Registrant participated in the College investigation that resulted in the May 19, 2020 Order. Conduct Counsel has never received a bounce-back or an indication that the email address is defunct or no longer in use.

Conduct Counsel submitted that the Affidavit of the Hearings Director dated August 31, 2022 shows that the last time that the Registrant actively responded to the College was on May 29, 2019 at 10:36 p.m. using the email address (Exhibit 5). There is a delivery receipt from the email address as recently as April 14, 2022. This email address has never been updated by the Registrant. Subsequent to May 29, 2019 it has been necessary to carry on with the conduct process and serve the Registrant with the necessary notices leading up to the hearing in April 2020. The May 29, 2019 email appears to be the last communication that was received from the Registrant based on a review of the communications log.

Conduct Counsel submitted that Exhibit 5 shows that there were a number of attempts to serve the Registrant by the former Hearings Director.

The Hearing Tribunal held that service was good and sufficient for the reasons set out below, and requested further submissions on the Allegation.

Conduct Counsel submitted that the evidence shows that the Allegation has been proven, and that the conduct constitutes unprofessional conduct. The hearing resulting in the May 19, 2020 Order concerned treatment of an elderly patient at a long-term care facility. The fine remains outstanding despite the fact that more than 24 months have passed since the date of the Order. Further, this is well beyond the October 30, 2021 deadline for payment that was imposed by the Complaints Director. The Registrant was given additional time to pay the fine, and no payment has been made as of the date of the hearing. This constitutes noncompliance with the May 19, 2020 Order. As such, the Allegation has been factually proven on a balance of probabilities.

The definition of unprofessional conduct includes a contravention of an order under Part 4 of the HPA. The Registrant contravened the May 19, 2020 Order. Conduct Counsel submitted that the Registrant breached the following provisions in the Standards of Practice: 1.1, 1.2, 5.2. Conduct

Counsel submitted that the Registrant breached the following provision in the 2017 Code of Ethics: G1. The Registrant's conduct also harms the integrity of the profession.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON THE ALLEGATION

The May 19, 2020 Order deals with compliance, and the authority of the Complaints Director. Specifically, paragraphs 20-23 of the May 19, 2020 Order state as follows:

20. *Compliance with this Order shall be determined by the Complaints Director of CARNA. All decisions with respect to Siobhan Oriaifo's compliance with this Order will be in the sole discretion of the Complaints Director.*
21. *Proof of compliance with all requirements under this Order must be received by the Complaints Director of CARNA by the deadlines set out in the Order. If the Complaints Director deems it appropriate, and for the sole purpose of permitting Siobhan Oriaifo to proceed toward compliance with this Order, the Complaints Director may in her sole discretion grant extensions or make other minor adjustments to the Order that are in keeping with this Hearing Tribunal Order, without varying the substance of the Order.*
22. *Should Siobhan Oriaifo fail or be unable to comply with any of the requirements of this Order, or if any dispute arises regarding the implementation of this Order, the Complaints Director may exercise the authority under section 82(3) of the HPA, and, in so doing, may rely on any non-compliance with the this Order as grounds to make a recommendation under section 65 of the HPA which may include suspension of Siobhan Oriaifo's practice permit.*
23. *The responsibility lies with Siobhan Oriaifo to comply with this Order. It is the responsibility of Siobhan Oriaifo to initiate communication with CARNA for any anticipated non-compliance and any request for an extension.*

As such, the Complaints Director has the "sole discretion" to determine compliance. This discretion is set out in the HPA and in the May 19, 2020 Order itself. The Complaints Director has determined that the Registrant is not compliant with the May 19, 2020 Order. In these circumstances, the Hearing Tribunal held that the service was good and sufficient. When making this decision, the Hearing Tribunal also considered fairness to the Registrant. The decision was sent by registered mail on May 22, 2020. The mail was returned to the College due to "unable to deliver – receiver moved". The decision was sent by email to the Registrant on June 10, 2020. The Notice of Decision was published in the Calgary Herald on June 12, 2020. On July 6, 2020 the decision was published on the College website. The Registrant was informed that the deadline for payment of the fine was October 30, 2021. The ultimate deadline of 24 months from the date of the decision for the payment of the fine has passed. The Registrant was properly served with the Notice to Attend a Hearing for this hearing. The Registrant has not responded to emails from the College although as recently as April 2022, emails sent to the Registrant show that they are being received.

The Hearing Tribunal has reviewed the exhibits and considered the submissions made by Conduct Counsel. The Hearing Tribunal considered the definition of unprofessional conduct under section (1)(1)(pp) of the HPA. The Hearing Tribunal finds that the Allegation is proven and that the Registrant's conduct constitutes unprofessional conduct under section (1)(1)(pp) of the *Health Professions Act*, as follows:

1(1) *In this Act,*

(pp) “unprofessional conduct” means one or more of the following, whether or not it is disgraceful or dishonourable:

(ii) contravention of this Act, a code of ethics or standards of practice;

(viii) contravening an order under Part 4, conditions imposed on a practice permit or a direction under section 118(4);

The Hearing Tribunal finds that the proven conduct breached the following provisions of the Practice Standards: **1.1, 1.2, 5.2** as follows:

Standard One: Responsibility and Accountability

The nurse is personally responsible and accountable for their nursing practice and conduct.

Indicators

1.1 The nurse is accountable at all times for their own actions.

1.2 The nurse follows current legislation, standards and policies relevant to their practice setting.

Standard Five: Self-Regulation

The nurse fulfills the professional obligations related to self-regulation.

Indicators

5.2 The nurse follows all current and relevant legislation and regulations.

The Hearing Tribunal finds that the Registrant breached the following provisions of the Code of Ethics: **G1**, as follows:

G. Being Accountable

Nurses are accountable for their actions and answerable for their practice.

Ethical responsibilities:

1. Nurses, as members of a self-regulating profession, practise according to the values and responsibilities in the Code and in keeping with the professional standards, laws and regulations supporting ethical practice.

The Registrant has failed to comply with an order of the Hearing Tribunal. Further, she has failed to respond to the College communications when attempts have been made to notify her of the obligations and possible consequences. The last communication by the Registrant was on May 29, 2019. The allegations resulting in the May 19, 2020 Order were very serious and

involved treatment of a vulnerable patient. The Registrant has not demonstrated accountability, and is in breach of the Standards of Practice and the Code of Ethics.

SUBMISSIONS ON SANCTION

Submissions by Conduct Counsel

Conduct Counsel reviewed the penalties that were proposed by the Complaints Director (Exhibit 8). The Registrant's registration will be cancelled effective immediately pursuant to section 82(1)(h) of the HPA. Registration has already been cancelled in 2019 pursuant to section 43 of the HPA. If a member fails to renew their registration, there is a cut-off period that they are deemed not to have renewed and the registration and practice permit are cancelled pursuant to section 43. The Complaints Director is seeking cancellation under section 82(1)(h) because a conduct cancellation is different from a cancellation under section 43 of the HPA.

A person whose practice permit is cancelled under section 82 must go through a process set out in the regulation under the HPA. It is a more robust process, and a reinstatement committee must be involved. This is a deterrent that is responsive to the conduct of the Registrant.

The proposed sanction also includes a fine and costs. The fine and costs must be paid regardless of whether the Registrant has an active practice permit. The fine and costs are a debt owed to the College and, if not paid, can be recovered by an action in debt. If the Registrant is reinstated, she will be automatically suspended pending payment of the outstanding costs and fine. This is another necessary deterrent given the Registrant's conduct.

The fine from the May 19, 2020 Order remains unpaid. As such, there is an evidentiary foundation for a fine.

The proposed costs are based on the unpaid amount that was ordered in the May 19, 2020 Order of \$6,000, plus \$3,000 for the current hearing. The estimated costs for the current hearing are approximately \$6,000 (Exhibit 9) and the Complaints Director is seeking 50 percent indemnity for the costs of the hearing.

Conduct Counsel reviewed the factors in the decision of *Jaswal v. Medical Board (Nfld.)*, 1996 CanLII 11630 (NL SC) and how those factors applied to the present case:

- i. *The nature and gravity of the proven allegations:* The Allegation is serious and involves noncompliance with an order that was granted in May 2020. The decision in *Kuny v College of Registered Nurses of Manitoba*, 2018 MBCA 21 ("*Kuny*") states that members of a profession must be willing to be governed by their regulator. Otherwise the public will not be protected. It is open to the Hearing Tribunal to come to the conclusion that the Registrant is ungovernable.
- ii. *The age and experience of the member:* The Registrant has practised as a registered nurse since 2014, and was registered with the College since 2017. She should have been well aware of her professional and ethical responsibilities and the need for compliance with an order.
- iii. *The previous character of the member:* There is no additional discipline history apart from the May 19, 2020 decision and lack of compliance with the order.
- iv. *The age and mental condition of the offended patient:* This factor is not directly relevant in this hearing as the Allegation relates to noncompliance with an order.

However, members of a profession must be willing to be governed by their regulator for the public to be protected. The May 19, 2020 Order resulted from treatment of a vulnerable patient. Compliance with this order is critical to ensure that the public is protected.

- v. *The number of times the offence was proven to have occurred:* There has been noncompliance since the date that the decision was issued and specifically since October 2021.
- vi. *The role of the member in acknowledging what occurred:* There is no accountability by the Registrant. Although she participated in the first instance, an aggravating factor is the pattern of ungovernability. In *Alsaadi v Alberta College of Pharmacy, 2021 ABCA 313 (Alsaadi)*, the Court of Appeal stated that a professional may be said to be ungovernable if they indicate that they are not bound by the rules that apply to the profession. As noted in *Kuny v College of Registered Nurses of Manitoba, 2018 MBCA 21*, the fundamental purpose of sentencing is to ensure that the public is protected. The role of the nurse in acknowledging what occurred is tied directly with the governability of the Registrant.
- vii. *Whether the member has already suffered other serious financial or other penalties:* The Registrant has demonstrated noncompliance with the May 19, 2020 Order. She has not suffered any penalty as a result of the decision.
- viii. *The impact on the offended patient:* Although this factor is not directly applicable, it is important to keep in mind the allegations that resulted in the May 19, 2020 Order.
- ix. *The presence or absence of any mitigating factors:* No other mitigating circumstances have been identified.
- x. *The need to promote specific and general deterrence:* Specific deterrence means that a sanction is imposed that will ensure that the Registrant does not repeat the conduct. In order to achieve general deterrence, the Complaints Director must demonstrate that compliance with an order is important and critical to the functioning of the College. Cancellation of registration pursuant to section 82 of the HPA is both a specific and general deterrent.

The Registrant should not be allowed to ignore the College and thereby avoid the payment of a fine and costs. The decision of the Alberta Court of Appeal in *Al-Ghamdi v College of Physicians and Surgeons of Alberta, 2020 ABCA 71* stipulates that a professional is entitled to make full answer and defence. A costs award requires consideration of many factors including the outcome of the hearing, the reasons the complaint arose in the first place, and the financial burden on both the College and the professional. The Complaints Director is requesting partial indemnity for the costs.
- xi. *The need to maintain public confidence in the integrity of the nursing profession:* Deterrence is a critical element in maintaining the public's confidence in the profession. A strong message needs to be conveyed to the public to ensure that the public's confidence is maintained.
- xii. *Degree to which offensive conduct is outside the range of permitted conduct:* Noncompliance and failure to engage with a regulator is completely unacceptable.

- xiii. *Range of sentences in similar cases* – The decisions in *Kuny* and *Alsaadi* contain discussions of cancellation in the context of ungovernability. There are two decisions of the CRNA Hearing Tribunal from 2014 and 2015 where the hearings proceeded in the absence of the member and cancellation was ordered.

In all of these circumstances, the Complaints Director submitted that the proposed order is appropriate.

Questions from the Hearing Tribunal

Is this the first time that the Registrant would have her registration cancelled pursuant to section 82? What is the process for reinstatement if the Registrant was successful in paying her fine?

Conduct Counsel submitted that this would be the first time that there would be a section 82 cancellation, and the condition that would be on her registration would reflect that it was as a result of a disciplinary matter. The Reinstatement Review Committee would manage any application for reinstatement.

The May 19, 2020 decision identified practice issues with vulnerable clients. Will the Reinstatement Review Committee be privy to all of the background information?

Conduct Counsel reviewed the provisions in the HPA and Nursing Profession Regulation dealing with reinstatement (Exhibit 10). An application is made to the Complaints Director and considered by the Reinstatement Review Committee. The Reinstatement Review Committee is entitled to receive the prior decision and the record, and has broad discretion to determine whether the application should be granted and whether there should be further remedial action upon reinstatement.

The onus is on the Registrant to provide their current address and phone number and other information. Has the College ever used process servers? Would the College consider using a process server to ensure that the Registrant receives the decision of this Hearing Tribunal?

There are very few cases where a member continues to be nonresponsive, and Conduct Counsel was not aware of situations where a process server was used. The HPA allows the College to rely on information that was provided by the member for the register as good information. Bylaw 23 goes a step further than what was contemplated by the HPA by requiring publication in a newspaper.

Paragraph 12 of the proposed order talks about notification. There is mention that the Registrant is licensed in Texas. Does this allow for notification outside of Canada?

It is within the College's jurisdiction to send notifications outside of Canada pursuant to section 119 of the HPA.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON SANCTION

The Hearing Tribunal finds that the penalty proposed by the Complaints Director is appropriate given the behaviour and conduct of the Registrant.

In considering protection of the public, the Hearing Tribunal finds this penalty will ensure the public is protected by the cancellation of the Registrant's practice permit and registration pursuant to section 82(1)(h) of the HPA, as well as the requirement to submit an application to the Reinstatement Review Committee if she returns to the profession. This penalty will also ensure that public confidence in the College's ability to regulate its members is maintained. This penalty demonstrates that the College will continue to regulate its members and will not tolerate the disregard of orders from Hearing Tribunals by its members.

A breach of an order of a Hearing Tribunal is generally a serious matter because, unless nurses comply with such orders, the College cannot carry out its duties in a timely and effective manner so as to protect the public and promote public confidence in the regulation of the profession. The Hearing Tribunal took into consideration the aggravating factors that the Registrant was given ample opportunity to comply with the May 19, 2020 Order. Instead the Registrant chose to ignore the order and communications from the College. The Registrant's conduct raises serious concerns about her governability.

Self-regulation is based on members being responsible and accountable for their actions to the College, and the Hearing Tribunal believes this penalty will serve to support that premise. The Registrant's failure to comply with an order of the Hearing Tribunal demonstrated a lack of respect for the profession and undermined an important principle of self-regulation. The Registrant's disregard for the College's authority as a self-regulating organization undermines the very foundation and privilege of self-regulation and is unacceptable. The cancellation of the Registrant's practice permit and registration pursuant to section 82 of the HPA and the fine of \$2,000 serve to denounce the Registrant's unprofessional conduct and to remind the profession of the serious consequences for failing to comply with orders of the Hearing Tribunal. They serve as a specific deterrent to the Registrant and as a general deterrent to the profession.

With respect to costs, the Hearing Tribunal heard evidence as to the actual costs of the hearing borne by the College. It is fair and reasonable that a member pay a portion of these costs, which are otherwise borne by the profession as a whole.

ORDER OF THE HEARING TRIBUNAL

1. Notwithstanding the Registrant's practice permit and registration being cancelled by the College's Registration Department effective October 1, 2019 pursuant to section 43 of the *Health Professions Act*, RSA 2000, c H-7 ("**HPA**"), the Registrant's CRNA practice permit and registration is hereby also cancelled, effectively immediately, pursuant to section 82(1)(h) of the HPA.
2. By **December 31, 2022**, the Registrant shall pay a fine in the sum of \$2,000.00, via payment to the College (the "**Fine**") and shall provide proof of payment satisfactory to the Complaints Director, noting the following terms apply:
 - a. pursuant to Section 82(3)(c) of the HPA, the Registrant may be automatically suspended for any non-payment;
 - b. if the Registrant fails to pay the Fine by the deadline indicated, the Complaints Director may publish an administrative notice regarding non-payment of the Fine on the College's website including the Registrant's name and registration number and that the Fine arose from a Decision of the Hearing Tribunal ("**Administrative Notice of Non-Payment**");

- c. the Registrant must pay the Fine owed to the College, whether or not the Registrant has an active practice permit with the College;
 - d. the Fine is a debt owed to the College and if not paid, may be recovered by the College by an action of debt.
3. By **December 31, 2022**, the Registrant shall pay costs in the sum of \$9,000.00, via payment to the College (the “**Costs**”), and shall provide proof of payment satisfactory to the Complaints Director, noting the following terms may apply:
- a. pursuant to Section 82(3)(c) of the HPA, the Registrant may be automatically suspended for any non-payment;
 - b. if the Registrant fails to pay the Costs by the deadline indicated, the Complaints Director may publish an Administrative Notice of Non-Payment of the Costs on the College’s website including the Registrant’s name and registration number and that the Costs arose from a Decision of the Hearing Tribunal;
 - c. the Registrant must pay the Costs owed to the College, whether or not the Registrant has an active practice permit with the College; and
 - d. the Costs are a debt owed to the College and if not paid, may be recovered by the College by an action of debt.
4. Should the Registrant be successful in being reinstated with the College and reissued a practice permit, the usual terms of fine and costs payment, as per 82(3)(c) of the HPA shall apply, whereby Registrant may be automatically suspended for any then, or thereafter, outstanding non-payment of the fine or costs as set out above in paragraphs 3 and 4, respectively.
5. For clarity and certainty, the Registrant is, in addition to what is set out in this Order, required to complete any and all requirements as have or may be imposed from the College’s Registration Department. This Order does not supersede or, if complied with, serve to satisfy any such requirements from the College’s Registration Department.
6. This Order supersedes the Hearing Tribunal’s Order of May 19, 2020.

COMPLIANCE

- 7. Compliance with this Order shall be determined by the Complaints Director of the College. All decisions with respect to the Registrant’s compliance with this Order will be in the sole discretion of the Complaints Director.
- 8. The Registrant will provide proof of completion of the above-noted Conditions to the Complaints Director via e-mail to procond@nurses.ab.ca or via fax at 780-453-0546.
- 9. Should the Registrant fail or be unable to comply with any of the requirements of this Order, or if any dispute arises regarding the implementation of this Order, the Complaints Director may exercise the authority under section 82(3) of HPA.
- 10. The responsibility lies with the Registrant to comply with this Order. It is the responsibility of the Registrant to initiate communication with the College for any anticipated non-compliance and any request for an extension.

CONDITIONS

11. The Registrar of the College will be requested to put the following conditions against Registrant's registration and/or practice permit (current and/or future) and shall remain until the condition is satisfied:
 - a. ***Cancelled – Arising from Disciplinary Matter;***
 - b. ***Shall pay fine – Arising from Disciplinary Matter;***
 - c. ***Shall pay costs – Arising from Disciplinary Matter.***
12. Effective **August 31, 2022**, or the date of this Order if different from the date of the Hearing, notifications of the above conditions shall be sent out to Registrant's current employers (if any), the regulatory college for Registered Nurses in all Canadian provinces and territories, and other professional colleges with which Registrant is also registered (if any).
13. Once Registrant has complied with a condition listed above, it shall be removed. Once all the conditions have been removed, the Registrar will be requested to notify the regulatory college of the other Canadian jurisdictions.
14. This Order takes effect **August 31, 2022**, or the date of this Order if different from the date of the Hearing, and remains in effect pending the outcome of any appeal, unless a stay is granted pursuant to section 86 of the HPA.

This Decision is made in accordance with Sections 80, 82 and 83 of the HPA.

Respectfully submitted,



Bonnie Bazlik, Chairperson
On Behalf of the Hearing Tribunal

Date of Order: August 31, 2022