

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 **LEAH HASSELBERG**, R.N. REGISTRATION #**70,010**

AS A RESULT OF A HEARING HELD BEFORE

THE HEARING TRIBUNAL

OF THE COLLEGE

11120 178 STREET

EDMONTON, ALBERTA

ON

September 29, 2022

INTRODUCTION

A virtual hearing was held on **September 29, 2022**, via Microsoft Teams videoconferencing by the Hearing Tribunal of the College of Registered Nurses of Alberta (the "**College**") to hear a complaint against Leah Hasselberg, R.N. registration #70,010.

Those present at the hearing were:

a. Hearing Tribunal Members:

Bonnie Bazlik, RN Chairperson
John Bradbury, RN
Doug Dawson, Public Representative
Sarita Dighe-Bramwell, Public Representative

b. Independent Legal Counsel to the Hearing Tribunal:

Julie Gagnon

c. College Representative:

Kate Whittleton, Conduct Counsel

d. Registrant Under Investigation:

Leah Hasselberg (sometimes hereinafter referred to as "the **Registrant**")

e. Registrant's Labour Relations Officer:

Jacob Schweda

f. CRNA Staff:

Diana Halabi, Complaints Clerk

g. Observers:

Jacqueline Simms

PRELIMINARY MATTERS

Conduct Counsel and the Labour Relations Officer for the Registrant 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. No preliminary applications were made.

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 the matter was proceeding by Agreement.

ALLEGATIONS AND ADMISSION

The allegations in the Notice to Attend are as follows:

1. On or between November 30, 2021 and December 10, 2021, the Registrant engaged in sexual misconduct towards [Patient 1] when they did one or more of the following:
 - a. On one (1) occasion between November 30, 2021 and December 10, 2021, the Registrant removed their shirt during a video-chat with [Patient 1] such that they were partially nude, from the waist up, in the presence of [Patient 1]; and
 - b. On one (1) or more occasions between November 30, 2021 and December 10, 2021, the Registrant engaged in communications of a sexual nature with [Patient 1].
2. Further to Allegation 1, between November 30, 2021 and December 10, 2021, the Registrant displayed a lack of judgment and/or violated a code of ethics or practice standard when they did one or more of the following:
 - a. On one (1) occasion between November 30, 2021 and December 10, 2021, the Registrant removed their shirt during a video-chat with [Patient 1] such that they were partially nude, from the waist up, in the presence of [Patient 1]; and
 - b. engaged in inappropriate communications with [Patient 1];
 - c. participated in an inappropriate relationship with [Patient 1]; and
 - d. engaged in and/or facilitated one (1) or more financial transactions with [Patient 1] that were not legitimately required by the Registrant's conditions of employment or practice requirements.
3. Between November 30, 2021 and December 10, 2021, the Registrant displayed a lack of judgment and/or violated a practice standard when they did one or more of the following:
 - a. failed to report their relationship with [Patient 1] to their employer in a timely manner; and
 - b. failed to report the possession of contraband by [Patient 1] to their employer.

It is further alleged that the Registrant's conduct constitutes "unprofessional conduct", as defined in section 1(1)(pp)(i),(ii), and/or (xii) of the *Health Professions Act*, including that:

1. The conduct underlying Allegation 1, or any part of it:
 - a. constitutes “sexual misconduct” as defined by section 1(1)(nn.2) of the *Health Professions Act*;
 - b. contravenes one (1) or more of the following: *The Canadian Nurses Association (CNA) Code of Ethics (“CNACE”)*, *CARNA’s Entry-Level Competencies for the Practice of Registered Nurses (2019) (“CELCPRN”)*, *CARNA’s Practice Standards for Regulated Members (2013) (“CPSRM”)*, and *CARNA’s Protection of Patients from Sexual Abuse and Sexual Misconduct Standards (“CPPSASMS”)*;
 - c. contravenes *CARNA’s Guideline on Professional Boundaries: Guidelines for the Nurse-Client Relationship (2020) (“CGPB”)*, contrary to *CPSRM*; and/or
 - d. contravenes one (1) or more employer policies, contrary to the *CPSRM*.
2. The conduct underlying Allegation 2, or any part of it:
 - a. contravenes one (1) or more of the following: *CNACE*, *CELCPRN* and *CPSRM*;
 - b. contravenes *CGPB*, contrary to *CPSRM*; and/or
 - c. contravenes one (1) or more employer policies, contrary to *CPSRM*.
3. The conduct underlying Allegation 3, or any part of it, contravenes one (1) or more employer policies, contrary to *CPSRM*.

The Registrant has admitted to the conduct in the allegations in the Agreed Statement of Facts and Liabilities (Exhibit #2).

EXHIBITS

The following documents were entered as Exhibits:

EXHIBIT	DESCRIPTION
Exhibit #1:	Notice to Attend a Hearing by the Hearing Tribunal of the College of Registered Nurses of Alberta;
Exhibit #2:	Agreed Statement of Facts and Liabilities;

Appendix A: Letter from Leah Hasselberg dated December 17, 2021

Appendix B: Section 56 Letter from Deborah Johnson, Associate Complaints Director, dated December 20, 2021

- Appendix C1:** Resume of Registrant
Appendix C2: Training Summary and Supplemental Training Certificates
Appendix D1: Practice Standards for Regulated Members (2013)
Appendix D2: Canadian Nurses Association Code of Ethics (2017)
Appendix D3: Entry Level Competencies for the Practice of Registered Nurses (2019)
Appendix D4: Protection of Patients from Sexual Abuse and Sexual Misconduct Standards (2019)
Appendix E: Professional Boundaries: Guidelines for the Nurse-Client Relationship (2020)
Appendix F1: Standards of Professional Conduct
Appendix F2: Code of Discipline
Appendix F3: Values and Ethics
Appendix F4: Conflict of Interest
Appendix G: Letter of Resignation dated December 1, 2021
Appendix H: New Nurse Orientation Manual
Appendix I: Security Briefing Confirmation
Appendix J: Job Description
Appendix K: Documentation entered by the Registrant in the electronic documentation platform (“**EMR**”) re [Patient 1]
Appendix L: Screenshots excerpted from Video
Appendix M: Note obtained during cell search in October 2021
Appendix N: Record of text messages from November 30, 2021 to December 10, 2021, in the form of ‘screen shots’ from the cell phone confiscated from [Patient 1] (“**Text Messages**”)

- Exhibit #3: Joint Recommendations on Sanction;
- Exhibit #4: Interim Agreement;
- Exhibit #5: Course Outline Relating to Professional Boundaries in Nursing;
- Exhibit #6: Excerpt from *Jaswal v. Newfoundland Medical Board (1996)*, 42 Admin L.R. (2d) 233 (“*Jaswal*”);
- Exhibit #7: *Ames (Re)*, 2022 CanLII 24365;
- Exhibit #8: *Moodley (Re)*, 2021 CanLII 43606;
- Exhibit #9: Affidavit of Tabitha Potts September 29, 2022.

SUBMISSIONS ON THE ALLEGATIONS

Submissions by Conduct Counsel:

Conduct Counsel reviewed the Agreed Statement of Facts and Liabilities. Conduct Counsel submitted that the conduct admitted in the Agreed Statement of Facts and Liabilities constitutes

unprofessional conduct under sections 1(1)(pp)(i), (ii) and (xii) of the HPA and that the conduct underlying Allegation 1 constitutes “sexual misconduct” as defined by section 1(1)(nn.2) of the HPA. Conduct Counsel noted that the Registrant has shown accountability and been fully cooperative throughout the process.

Submissions by the Labour Relations Officer for the Registrant:

The Registrant’s Labour Relations Officer advised that he had no submissions at this time, but wished to make further submissions at the penalty phase.

Questions from the Hearing Tribunal:

The Hearing Tribunal adjourned to consider the Exhibits and the submissions made. The Hearing Tribunal reconvened and asked the parties whether Practice Standard 5.9 was also applicable to the circumstances.

Conduct Counsel reviewed Practice Standard 5.9 and advised it related to fitness to practice. Conduct Counsel submitted that, based on the admissions made in the Agreed Statement of Facts and Liability, Practice Standard 5.9 was not applicable. However, if the Hearing Tribunal made a finding that Practice Standard 5.9 was engaged, Conduct Counsel would accept that finding.

The Registrant’s Labour Relations Officer advised that he agreed with Conduct Counsel that Practice Standard 5.9 was not engaged, given the conduct at issue and admissions made by the Registrant.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON THE ALLEGATIONS

The Hearing Tribunal has reviewed the Agreed Statement of Facts and Liability with the exhibits and considered the submissions made by the parties.

The Hearing Tribunal considered the definition of unprofessional conduct under section (1)(1)(pp) of the HPA. The Hearing Tribunal finds that the Allegations are proven and that the Registrant’s conduct constitutes unprofessional conduct under section (1)(1)(pp) of the HPA as follows:

Unprofessional conduct means one or more of the following, whether or not it is disgraceful or dishonourable:

- (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- (ii) contravention of this Act, a code of ethics or standards of practice;
- (xii) conduct that harms the integrity of the regulated profession.

In addition, the Hearing Tribunal finds that the conduct in Allegation 1 constitutes “sexual misconduct” as that is defined in section 1(1)(nn.2) of the HPA.

Further, the allegations The Hearing Tribunal considered the admissions in the Agreed Statement of Facts and Liability and finds the conduct in the allegations is proven. With respect to Allegations 1 and 2, the Hearing Tribunal reviewed the admissions of the Registrant and Appendix “N” to the

Agreed Statement of Facts and Liability, and was satisfied that on December 10, 2021, the Registrant did remove her shirt during a video-chat with a patient, such that she was partially nude, from the waist up, in the presence of the patient. While the image contained in Appendix "N" does not clearly show that the Registrant was not wearing a shirt, the Hearing Tribunal found that the Registrant's admission that she was not wearing a shirt was sufficient evidence to establish this Allegation.

The Hearing Tribunal also reviewed the Registrant's admissions and the text messages exchanged between the Registrant and the patient, contained in Appendix "N" to the Agreed Statement of Facts and Liability. The Hearing Tribunal found that this established that the Registrant engaged in communications of a sexual and inappropriate nature, and participated in an inappropriate relationship with the patient.

With respect to Allegation 2, the Hearing Tribunal reviewed Appendix "N" to the Agreed Statement of Facts and the Registrant's admissions and was satisfied that the Registrant facilitated one or more financial transactions with the patient, which were not legitimately required by the Registrant's conditions of employment or practice requirements. The Hearing Tribunal noted that the process of facilitating the financial transactions was relatively involved, and not a spur of the moment decision.

With respect to Allegation 3, the Hearing Tribunal reviewed the Agreed Statement of Facts and Liability and finds that the Registrant did not report the relationship with the patient to her employer in a timely manner. The Registrant was warned of the need for setting proper boundaries with the patient on multiple occasions. Despite inappropriate communications commencing around November 30, 2021, the Registrant did not inform her employer of the relationship until December 17, 2021 after concerns regarding her behavior had already come to light with the discovery of the patient's cell phone.

The Hearing Tribunal also reviewed the text messages contained in Appendix "N" to the Agreed Statement of Facts and Liability and finds that the Registrant was aware that the patient was in the possession of contraband, and failed to report that contraband to her employer.

The Hearing Tribunal finds that the Registrant breached the following provisions of the Entry Level Competencies for the Practice of Registered Nurses (2019): 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.12, 3.3, 4.1, 6.6, 7.1, as follows:

Competency Category 2: Professional

2.1 Demonstrates accountability, accepts responsibility, and seeks assistance as necessary for decisions and actions within the legislated scope of practice.

2.2 Demonstrates a professional presence, and confidence, honesty, integrity, and respect in all interactions.

2.3 Exercises professional judgment when using agency policies and procedures, or when practising in their absence.

2.5 Identifies the influence of personal values, beliefs, and positional power on clients and the health-care team and acts to reduce bias and influences.

2.6 Establishes and maintains professional boundaries with clients and the health-care team.

2.7 Identifies and addresses ethical (moral) issues using ethical reasoning, seeking support when necessary.

2.8 Demonstrates professional judgment to ensure social media and information and communication technologies (ICTs) are used in a way that maintains public trust in the profession.

2.12 Recognizes, acts on, and reports unprofessional conduct to the appropriate person, agency or professional body.

Competency Category 3: Communicator

3.3 Uses evidence-informed communication skills to build trusting, compassionate, and therapeutic relationships with clients.

Competency Category 4: Collaborator

4.1 Demonstrates collaborative professional relationships.

Competency Category 6: Leader

6.6 Demonstrates self-awareness through reflective practice and solicitation of feedback.

Competency Category 7: Advocate

7.1 Recognizes and takes action in situations where client safety is actually or potentially compromised.

The Hearing Tribunal finds that the Registrant breached the following provisions of the Practice Standards for Regulated Members (2013): 1.1, 1.2, 1.3, 2.4, 3.1, 3.2, 3.3, 5.2, 5.3, 5.8, as follows:

Standard 1: Responsibility and Accountability

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.

1.3 The nurse questions policies and procedures inconsistent with therapeutic client outcomes, best practices and safety standards

Standard 2: Knowledge-based Practice

2.4 The nurse exercises reasonable judgment and sets justifiable priorities in practice.

Standard 3: Ethical Practice

3.1 The nurse practises with honesty, integrity and respect.

3.2 The nurse protects and promotes a client's right to autonomy, respect, privacy, dignity and access to information.

3.3 The nurse ensures that their relationships with clients are therapeutic and professional.

Standard 5: Self Regulation

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

5.3 The nurse follows policies relevant to the profession as described in CARNA standards, guidelines and position statements.

5.8 The nurse reports unprofessional conduct to the appropriate person, agency or professional body.

The Hearing Tribunal finds that the Registrant breached the following provisions of the Protection of Patients from Sexual Abuse and Sexual Misconduct Standards (2019): 1.1, 1.2, 1.5, 1.8, 1.9, as follows:

Standard 1: Therapeutic and Professional Boundaries

The nurse must:

1.1 take responsibility for maintaining therapeutic and professional boundaries;

1.2 not sexualize any interaction with a patient;

1.5 refrain from socializing or communicating with a patient for the purpose of pursuing a sexual relationship (CPSA, 2018);

1.8 seek impartial advice and refrain from any relationship with the individual if there is any doubt that the individual is still their patient; and

1.9 acknowledge that the nurse-patient relationship remains a professional relationship for a minimum of one year following the last clinical encounter.

The Hearing Tribunal finds that the Registrant breached the following provisions of the Code of Ethics: A1, A3, A4, A5, C4, D1, D2, D6, D7, E11, F8, G1, G2, G8, as follows:

A. Providing Safe, Compassionate, Competent and Ethical Care

1. Nurses have a responsibility to conduct themselves according to the ethical responsibilities outlined in this document and in practice standards in what they do and how they interact with persons receiving care and other members of the health-care team.

3. Nurses build trustworthy relationships with persons receiving care as the foundation of meaningful communication, recognizing that building these relationships involves a conscious effort. Such relationships are critical to understanding people's needs and concerns.

4. Nurses question, intervene, report, and address unsafe, non-compassionate, unethical or incompetent practice or conditions that interfere with their ability to provide safe, compassionate, competent and ethical care; and they support those who do the same.

5. Nurses are honest and take all necessary actions to prevent or minimize patient safety incidents. They learn from near misses and work with others to reduce the potential for future risks and preventable harms.

C. Promoting and Respecting Informed Decision-Making

4. Nurses are sensitive to the inherent power differentials between care providers and persons receiving care. They do not misuse that power to influence decision-making.

D. Honouring Dignity

1. Nurses, in their professional capacity, relate to all persons receiving care with respect.

2. Nurses support persons receiving care in maintaining their dignity and integrity.

6. Nurses utilize practice standards, best practice guidelines, policies and research to minimize risk and maximize safety, well-being and/or dignity for persons receiving care.

7. Nurses maintain appropriate professional boundaries and ensure their relationships are always for the benefit of the person. They recognize their relationships are always for the benefit of the person. They recognize the potential vulnerability of persons receiving care and do not exploit their trust and dependency in a way that might compromise the therapeutic relationship. They do not abuse their relationship for personal or financial gain and do not enter into personal relationships (romantic, sexual or other) with persons receiving care.

E. Maintaining Privacy and Confidentiality

11. In all areas of practice, nurses safeguard the impact new and emerging technologies can have on patient privacy and confidentiality, professional boundaries, and the professional image of individual nurses and the organizations in which they work. They are also sensitive to ethical conduct in their use of electronic records, ensuring accurate data entry and avoiding falsification or alteration of documentation.

F. Promoting Justice

8. Nurses work collaboratively to develop a moral community. As part of this community, all nurses acknowledge their responsibility to contribute to positive and healthy practice environments. Nurses support a climate of trust that sponsors openness, encourages the act of questioning the status quo and supports those who speak out in good faith to address concerns (e.g., whistle blowing). Nurses protect whistle-blowers who have provided reasonable grounds for their concerns.

G. Being Accountable

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

2. Nurses are honest and practice with integrity in all of their professional interactions. Nurses represent themselves clearly with respect to name, title, and role.

8. Nurses identify and address conflicts of interest. They disclose actual or potential conflicts of interest that arise in their professional roles and relationships and resolve them in the interest of the needs and concerns of persons receiving care.

The breaches of the above noted Practice Standards, Competencies, and the Code of Ethics are serious and constitute unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA.

The Hearing Tribunal finds that the Registrant did not exercise her professional judgment in a manner consistent with her duties of honesty, integrity, and respect or in recognition of the positional power which she occupied over the patient. The Registrant failed to maintain the requisite professional boundaries in her relationship with the patient. The Registrant was a long-standing member of the nursing profession and received specialized training on maintaining professional boundaries in her workplace. Despite this background, the Registrant did not act in accordance with the relevant practice policies, guidelines, and legislation. Further, the Registrant did not report her failure to do the same in a timely manner. For these reasons, the Registrant displayed a lack of knowledge, skill, and judgment in the provision of professional services contrary to s. 1(1)(pp)(i) of the HPA.

The Registrant did not take responsibility for maintaining therapeutic and professional boundaries when she engaged in communications of a sexual nature with the patient. The Registrant pursued a sexual relationship with the patient during the nurse-patient relationship. The Hearing Tribunal was satisfied that the conduct of the Registrant in this regard constitutes sexual misconduct pursuant to s. 1(1)(nn.2) of the HPA. The communications between the Registrant and the patient included remarks of a sexual nature, which the Registrant ought reasonably to have known would cause offence or humiliation to the patient or adversely affect the patient's health and well-being.

Members of the public rely on nurses to respect and maintain therapeutic and professional boundaries with patients. The Registrant's failure to do so, resulting in sexual misconduct seriously undermines the integrity of the profession contrary to s. 1(1)(pp)(xii) of the HPA.

SUBMISSIONS ON SANCTION

The Hearing Tribunal heard submissions on the appropriate sanction.

Submissions by Conduct Counsel:

Conduct Counsel noted there was a joint proposal on sanction.

Conduct Counsel advised the Hearing Tribunal of requirement under section 81.1 of the HPA that the patient be provided with an opportunity to provide a verbal or written victim impact statement. Conduct Counsel referred to Exhibit 9 – Affidavit of Tabitha Potts, which detailed the efforts that the Conduct Department of the College had made to contact the patient. Despite leaving a number of messages for the patient, the College had been unable to make contact with him.

Conduct Counsel then advised that the Registrant would like the opportunity to address the Hearing Tribunal directly. The Registrant was affirmed and read a written statement which she had prepared. The Registrant stated that she took responsibility for her actions and was willing to accept the consequences of those actions. The Registrant advised that she had been attending weekly counselling, with only a short recess for financial reasons. The counselling engaged in by the Registrant specifically related to setting boundaries. The Registrant had also been engaging in journaling and reflecting to comprehend how she found herself in this situation. The Registrant did not view her conduct in these circumstances as representative of her many years as a nurse.

Following the Registrant's submissions, Conduct Counsel proceeded to review the proposed submissions on sanction. Conduct Counsel reviewed the factors in the decision of *Jaswal v. Newfoundland Medical Board* and how those factors applied to the present case.

1. The nature and gravity of the proven allegations: Conduct Counsel noted that these were exceptionally serious allegations, involving a serious breach of trust with serious boundary violations. Conduct Counsel submitted that the joint submission was reflective of the seriousness of the conduct.
2. The age and experience of the member: The Registrant was a member since 1999 and should therefore be well aware of her responsibilities as a nurse.
3. The previous character of the member: The Registrant had no prior discipline record and did self-report the conduct in question.
4. The age and mental condition of the offended patient: The patient is a middle-aged former inmate that was incarcerated in an institution. The patient had a history of [medical condition]. Conduct Counsel submitted that the Registrant was in a position of authority over the patient. The obligation of maintaining professional boundaries lies with the nurse and not the patient.
5. The number of times the offence was proven to have occurred: Conduct Counsel submitted that the offences occurred a number of times between November and December 2021. It was not an isolated incident.
6. The role of the registered nurse in acknowledging what occurred: The Registrant has admitted to the allegations, and that the allegations constitute unprofessional conduct.

7. Whether the member has already suffered other serious financial or other penalties: Conduct Counsel explained that the Registrant had already agreed to an Interim Agreement (Exhibit #4) which placed restrictions on her ability to practice.
8. The impact on the offended patient: Conduct Counsel explained that several unsuccessful efforts were made to contact the patient. Given that the patient was not in attendance and did not respond to the College, there was no victim impact statement. However, Conduct Counsel proceeded to indicate some impact on the patient which was evident from the Agreed Statement of Facts and Liability. Conduct Counsel indicated that the patient became the target of other inmates due to his relationship with the Registrant, as other inmates believed that the patient could “hook them up”.
9. The presence or absence of any mitigating factors: A significant mitigating factor is that the Registrant acknowledged and accepted her conduct. The Registrant has taken responsibility for her actions.
10. The need to promote specific and general deterrence: Conduct Counsel indicated that any sanction on the Registrant should have a deterrent effect on the Registrant engaging in similar conduct in the future.
11. The need to maintain public confidence: Conduct Counsel highlighted the importance of the need to maintain the public’s confidence in the integrity of the nursing profession, as a profession which protects and serves the public interest. Conduct Counsel submitted that the joint submission on sanction sends the appropriate message to the public and is a strong denunciation of the Registrant’s conduct.
12. Degree to which offensive conduct is outside the range of permitted conduct: The conduct alleged in this case is well outside of the range of permitted conduct.

In addition, Conduct Counsel reviewed the decisions of *Ames (Re)*, and *Moodley (Re)*. Conduct Counsel acknowledged that the conduct in *Moodley (Re)* was more egregious than that of the Registrant.

Conduct Counsel acknowledged that the Registrant has provided a behavior improvement plan to the Conduct Department and that the Conduct Department had deemed the behavior improvement plan sufficient for the purposes of order 5.

Submissions by the Labour Relations Officer for the Registrant:

The Labour Relations Officer for the Registrant submitted that the Registrant has learned from her actions and is committed to ensuring it will never happen again. The Labour Relations Officer highlighted that the Registrant has no prior discipline history and that she cares deeply about her work. It was significant that the Registrant acknowledged her actions through her self-report and Agreed Statement of Facts and Liability. The Registrant also signed the Interim Agreement, further demonstrating her willingness to comply and participate in the disciplinary process.

The Labour Relations Officer also submitted that the Registrant occupied a position in a unique workplace, which was very challenging. The patient was an inmate of higher influence and with a high likelihood of engaging in boundary violations. The Labour Relations Officer stated that the proposed sanction sends a strong message of condemnation. Finally, the Labour Relations

Officer highlighted that *Moodley (Re)* differed from the Registrant's circumstances in that the member in *Moodley (Re)* did not demonstrate the insight or responsibility that the Registrant has.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON SANCTION

The Hearing Tribunal considered the proposed sanction and the submissions of the parties, as well as the factors in *Jaswal*, as outlined by Conduct Counsel. The Hearing Tribunal also considered the Conduct Department's attempts to contact the patient and finds that the obligations under s. 81.1(2) of the HPA are satisfied. Reasonable efforts were made to contact the patient, and there was no evidence to suggest that adjourning the matter would result in contact being made with the patient.

The Hearing Tribunal reviewed each proposed order. The reprimand is appropriate to denounce the conduct of the Registrant. The orders include remediation by the Registrant, including course work, a Behaviour Improvement Plan and paper. These are aimed at helping the Registrant learn from this experience and ensure that the conduct is not repeated in the future. The suspension is a requirement where there is a finding of sexual misconduct and is necessary to reflect the seriousness of the allegations. The Hearing Tribunal noted that while the period of suspension was relatively short, the Registrant has been under an interim agreement since December 2021 and has not worked as a registered nurse since that time. The Hearing Tribunal took this into consideration in assessing the reasonableness of the period of suspension. Finally, the order for counselling and requirement for a notification letter are appropriate to ensure the public is protected.

The Hearing Tribunal takes seriously a finding of sexual misconduct and considered whether the proposed sanction reflects the seriousness of this finding. The Hearing Tribunal is aware that it should not depart from a joint submission on sanction unless the proposed sanction would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. In light of this standard, the Hearing Tribunal accepts the proposed joint submission on penalty. However, had this matter not proceeded by way of joint submission, the Hearing Tribunal would have considered whether a harsher sanction was appropriate.

The Hearing Tribunal finds that the proposed sanction is reasonable and protects the public. The proposed sanction serves as an appropriate deterrent for the Registrant and the membership generally. The proposed sanction will serve to maintain the public's confidence in the integrity of the profession.

ORDER OF THE HEARING TRIBUNAL

The Hearing Tribunal orders that:

1. The Registrant shall receive a reprimand for unprofessional conduct.
2. By **November 30, 2022**, the Registrant shall provide proof satisfactory to the Complaints Director that they have successfully completed and passed the following courses of study and learning activities:
 - a. ***Professional Boundaries in Nursing (John Collins Consulting)***.

3. By **November 30, 2022**, the Registrant shall write and submit a paper to the Complaints Director, which must be deemed satisfactory to the Complaints Director. The paper shall:
 - a. be titled “The Importance of Professional Boundaries and Protecting Patients from Sexual Harassment and Sexual Abuse”;
 - b. be at least 2000 words in length;
 - c. be typed and comply with professional formatting guidelines (American Psychological Association style);
 - d. demonstrate an understanding of professional boundaries and the importance of maintaining professional boundaries and protecting patients from sexual harassment and sexual assault;
 - e. Include a specific analysis of the how failures to maintain professional boundaries and protect patients are harmful to:
 - i. the public (patients, families and communities);
 - ii. the reputation of the profession of nursing; and
 - iii. the Registrant’s own career.
 - f. demonstrate insight into why the conduct of the Registrant, as outlined in this Agreement, were unacceptable, citing specific sections of the *Canadian Nurses Association Code of Ethics (2017)* (“**Code of Ethics**”), the *Practice Standards for Regulated Members (2013)* (“**Practice Standards**”) and the *Protection of Patients from Sexual Abuse and Sexual Misconduct Standards (2019)* (“**Protection of Patients Standards**”); and
 - g. have a bibliography of at least **ten (10)** references (no older than ten years old), one of which must be the *Code of Ethics*, *Practice Standards* and the *Protection of Patients Standards*, and others of which must be from academic journals or textbooks.
4. The Registrant’s College practice permit shall be suspended for a period of **ninety (90) days**, commencing the day after the date of the Hearing, which is to be determined, or on such other date as ordered by the Hearing Tribunal if different from the date of the Hearing. For further clarity, while suspended, the Registrant shall not work or practice as a Registrant (RN, Nurse Practitioner (“**NP**”), Provisional Permit Holder (“**PPH**”)), whether as a paid or unpaid employee, a volunteer, a contractor or a student in a clinical setting.
5. By **November 30, 2022**, the Registrant shall provide to the Complaints Director a self-improvement plan for maintaining appropriate professional boundaries with patients

(“**Behavior Improvement Plan**”). The Behavior Improvement Plan must be satisfactory to the Complaints Director and must:

- a. Be typed and comply with professional formatting guidelines (American Psychological Association style);
 - b. Be at least **750** words in length;
 - c. Include a list of least **ten (10)** behaviours that could be construed as boundary violations (that list must include the behaviours that are the subject of the Hearing);
 - d. Include a written plan of how to avoid committing the ten (10) listed boundary violations that describes how the Registrant will avoid committing boundary violations, including strategies, plans and supports or resources that may assist them;
 - e. Include a list of indicators that will tell the Registrant the strategies for avoiding boundary violations are effective.
 - f. Cite at least **six (6)** applicable standards and responsibilities from the following:
 - i. the *Practice Standards*;
 - ii. the *Code of Ethics*; and
 - iii. the *Protection of Patients Standards*.
6. The Registrant shall undergo counseling with a counselor (psychologist, psychiatrist or other health care professional approved by the Complaints Director), who has knowledge of the therapeutic communications and boundaries expected of a registered nurse, to assist the Registrant improve their understanding of appropriate professional boundaries with patients and protecting patients from sexual misconduct and sexual abuse. The Registrant shall provide a report from this counselor on or before **November 30, 2022** which must be satisfactory to the Complaints Director and which must include the following information:
- a. Confirmation that the counselor has received and reviewed a copy of the Decision of the Hearing Tribunal, including the findings and Order (the “**Decision**”);
 - b. Confirmation that the Registrant has attended a minimum of ten (10) sessions with the counselor since December 17, 2021;
 - c. A description of the work that has been done with the Registrant to mentor, coach and assist the Registrant to improve their understanding of appropriate professional boundaries with patients and the importance of protecting patients from sexual misconduct and sexual abuse;

- d. Confirmation that the Registrant has demonstrated insight into the inappropriateness of the behaviors described in the Decision, and in the opinion of the counselor is unlikely to violate those boundaries in future or enter into personal relationships, of any kind, with patients.
7. For a period of **two (2) years** from the date of the Hearing, which is to be determined, or the date of this Order if different from the date of the Hearing, the Registrant shall provide a letter ("**Notification Letter**") to the Complaints Director from their Supervisor at any new or prospective employer, or at any other entity for whom the Registrant will complete any type of nursing practice hours as a registrant of the College (RN, NP or PPH) that confirms:
 - a. The Supervisor's contact information and role;
 - b. That the Supervisor has received and reviewed a copy of the Decision;
 - c. That the Supervisor agrees to immediately report any concerns regarding the Registrant's practice as a RN/NP to the Complaints Director.

(the "**Condition(s)**")

COMPLIANCE

8. 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.
9. 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.
10. 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.
11. 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

12. The Registrant confirms the following list sets out all the Registrant's employers and includes all employers even if the Registrant is under an undertaking to not work, is on sick leave or disability leave, or if the Registrant have not been called to do shifts, but could be called. Employment includes being engaged to provide professional services as a

Registered Nurse on a full-time, part-time, casual basis as a paid or unpaid employee, consultant, contractor or volunteer. The Registrant confirms the following employment:

Employer Name	Employer Address & Phone Number

13. The Registrant understands and acknowledges that it is the Registrant's professional responsibility to immediately inform the College of any changes to the Registrant's employers, and employment sites, including self-employment, for purposes of keeping the Registrar current and for purposes of notices under section 119 of the HPA.
14. The Registrar of the College will be requested to put the following conditions against the Registrant's practice permit (current and/or future) and shall remain until the conditions are satisfied:
 - a. ***Course work required – Arising from Disciplinary Matter;***
 - b. ***Essay Required – Arising from a Disciplinary Matter;***
 - c. ***Suspended – Arising from Disciplinary Matter;***
 - d. ***Counselling required – Arising from Disciplinary Matter;***
 - e. ***Behavior Improvement Plan required - Arising from Disciplinary Matter;***
 - f. ***Employer notification(s) required - Arising from Disciplinary Matter.***
15. Effective on the date of the Hearing, which is to be determined, or the date of this Order if different from the date of the Hearing, notifications of the above condition shall be sent out to the Registrant's current employers (if any), the regulatory college for Registered Nurses in all Canadian provinces and territories, and other professional colleges with which the Registrant is also registered (if any).
16. Once the 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 colleges in the other Canadian jurisdictions.

This Order takes effect on the date of the Hearing, which is to be determined, 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,

A handwritten signature in black ink, appearing to read "Bazlik", is written over a light grey rectangular background.

Bonnie Bazlik, Chairperson
On Behalf of the Hearing Tribunal

Date of Order: **September 29, 2022**