



COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF **[NAME REDACTED]**, R.N. REGISTRATION #48,395

AS A RESULT OF A HEARING HELD BEFORE

THE HEARING TRIBUNAL

OF THE

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA

11120 178 STREET

EDMONTON, ALBERTA

ON

FEBRUARY 21, 2020



## INTRODUCTION

A hearing was held on February 21, 2020 at the College and Association of Registered Nurses of Alberta (“CARNA”) by the Hearing Tribunal of CARNA to hear a complaint against [name redacted], R.N. Registration #48,395.

Those present at the hearing were:

**a. Hearing Tribunal Members:**

Nancy Goddard, Chairperson  
Danica Wong  
Christa Eaton  
Nancy Brook, Public Representative

**b. Independent Legal Counsel to the Hearing Tribunal:**

Mary Marshall  
James Hart

**c. CARNA Representative:**

Gwendolyn Parsons, Conduct Counsel

**d. Regulated Member Under Investigation:**

[name redacted] (sometimes hereinafter referred to as “the Regulated Member”),  
attending by telephone

**e. Regulated Member’s Labour Relations Officer:**

Lucy Anderson, Labour Relations Officer, United Nurses of Alberta

## PRELIMINARY MATTERS

Conduct Counsel and the Labour Relations Officer for the Regulated Member 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. No members of the public were present.

Conduct Counsel confirmed that the matter was proceeding by way of agreement.

## ALLEGATIONS AND ADMISSION

The allegations in the Notice to Attend are as follows:

The behaviour of you, [name redacted], Registration #48,395, constitutes unprofessional conduct, in that while employed as a Registered Nurse at [educational institution redacted], Calgary, Alberta, your practice fell below the standard expected of an RN, and you engaged in unprofessional conduct when:

1. On or about August 29, 2016, you attended at work when you knew or ought to have known you were unfit for practice due to impairment by alcohol or other substances.
2. On or about January 31, 2017, you attended at work when you knew or ought to have known you were unfit for practice due to impairment by alcohol or other substances.
3. On or about June 7, 2017, you attended a work event when you knew or ought to have known you were unfit for practice as you were impaired by alcohol or other substances.
4. On or about April 3, 2018, you:
  - a. Attended at work when you knew or ought to have known you were unfit for practice due to impairment by alcohol or other substances; and
  - b. Drove yourself to your place of employment while impaired by alcohol or other substances.
5. On or about April 23, 2018, you drove to your place of employment and sat in the parking lot in your car while impaired by alcohol or other substances until a co-worker brought you into the Health Centre.
6. On or about May 14, 2018, you attended at your place of employment impaired by alcohol or other substances as described by the security guards who were called to check on you.

The Regulated Member has admitted to the conduct in the allegations in the Consent Agreement (Exhibit #2).

The matter proceeded by way of Consent Agreement.

## EXHIBITS

The following documents were entered as Exhibits:

NUMBER	DESCRIPTION
<b>Exhibit #1:</b>	<u>Amended</u> Notice to Attend a Hearing by the Hearing Tribunal of the College and Association of Registered Nurses of Alberta to [name redacted], dated January 7, 2020
<b>Exhibit #2:</b>	Consent Agreement between [name redacted], #48,395 and Gwendolyn Parsons, Conduct Counsel
<b>Exhibit #3:</b>	Statement of [name redacted] not to practice dated February 20, 2020
<b>Exhibit #4:</b>	CARNA Practice Standards for Regulated Members ("Practice Standards")
<b>Exhibit #5:</b>	2008 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses ("2008 Code of Ethics")
<b>Exhibit #6:</b>	2017 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses ("2017 Code of Ethics")

<b>NUMBER</b>	<b>DESCRIPTION</b>
<b>Exhibit #7:</b>	Joint recommendations for Sanction dated February 21, 2020
<b>Exhibit #8:</b>	Permanent and Irrevocable Undertaking of [name redacted] dated February 21, 2020
<b>Exhibit #9:</b>	Excerpt from <i>Jaswal v. Newfoundland Medical Board</i> , (1996), 42 Admin L.R. (2d) 233 (“ <i>Jaswal</i> ”)

## **SUBMISSIONS ON THE ALLEGATIONS**

### **Submissions by Conduct Counsel:**

Conduct Counsel made brief submissions. Conduct Counsel thanked the Regulated Member and the Labour Relations Officer for reaching a Consent Agreement.

Conduct Counsel briefly reviewed Exhibit #2. She noted that Appendix A includes the complaint from the Regulated Member’s employer, [educational institution redacted]. The Regulated Member has acknowledged the conduct and admitted it constitutes unprofessional conduct in Exhibit #2.

Conduct Counsel submitted that the conduct constitutes unprofessional conduct under sections 1(1)(pp) of the HPA.

Conduct Counsel noted that the following Practice Standards were applicable: Standards 1.1, 1.2, 1.4, 2.4, 3.1, 3.4, 3.5, 5.2, 5.3, 5.6, and 5.9.

Conduct Counsel submitted that these Practice Standards apply to the Regulated Member in her conduct as a professor at [educational institution redacted], Calgary, Alberta, and referred to the following statement in the Practice Standards that the Practice Standards “apply at all times to nurses regardless of role or setting” (page 4).

Conduct Counsel also noted that the following provisions from the 2008 Code of Ethics applied to the first three Allegations: A1, A3, D10, F5, G1, G2, G4, and G9.

Conduct Counsel submitted that these provisions from the 2008 Code of Ethics apply to the Regulated Member in her conduct as a professor at [educational institution redacted], Calgary, Alberta, and referred to the following statement in the 2008 Code of Ethics (page 1): “It [the *Code*] is intended for nurses in all contexts and domains of nursing practice and at all levels of decision-making.” Nursing practice refers to “all areas of nursing practice, including direct care (which includes community and public health), education, administration, research and policy development.”

Conduct Counsel also noted that the following provisions from the 2017 Code of Ethics applied to the last three Allegations: A1, A3, A4, A5, A12, D13, F8, G1, G2, G4, G5, and G9.

Conduct Counsel submitted that these provisions from the 2017 Code of Ethics apply to the Regulated Member in her conduct as a professor at [educational institution redacted], Calgary, Alberta, and referred to the following statement in the 2017 Code of Ethics (page 2): “The *Code* is intended for nurses in all contexts and domains of nursing practice (clinical practice, education, administration, research and policy; CNA, 2015c) and at all levels of decision-making.”

Conduct Counsel noted there may be other applicable provisions but that, in her view, these were the applicable provisions.

**Submissions by the Labour Relations Officer for the Regulated Member:**

The Regulated Member's Labour Relations Officer advised she had no submissions.

**DECISION AND REASONS OF THE HEARING TRIBUNAL ON THE ALLEGATIONS**

The Hearing Tribunal has reviewed the exhibits and considered the submissions made by the parties. The Regulated Member became registered with CARNA's predecessor, the Alberta Association of Registered Nurses, in November 1983 as a Registered Nurse. She commenced employment with [educational institution redacted], Calgary, Alberta, on August 15, 2000. The Regulated Member has been under an Undertaking not to practise since March 7, 2019.

The Hearing Tribunal finds that the allegations admitted to by the Regulated Member are proven. Based on the admission of the Regulated Member, the Hearing Tribunal finds that the Regulated Member, while employed as a Registered Nurse at [educational institution redacted], Calgary, Alberta, engaged in unprofessional conduct when she attended at work on August 29, 2016 and January 31, 2017 when she knew or ought to have known that she was unfit for practice due to impairment by alcohol or other substances; and attended a work event on June 7, 2017 when she knew or ought to have known that she was unfit for practice due to impairment by alcohol or other substances.

Further, the Regulated Member engaged in unprofessional conduct when she attended at work on April 3, 2018, when she knew or ought to have known that she was unfit for practice due to impairment by alcohol or other substances, and drove herself to her place of employment while impaired by alcohol or other substances. Further, the Regulated Member engaged in unprofessional conduct on April 23, 2018, when she drove to her place of employment and sat in the parking lot in her car while impaired by alcohol or other substances until a co-worker brought her into the Health Centre. Further, the Regulated Member engaged in unprofessional conduct on May 14, 2018, when she attended at her place of employment impaired by alcohol or other substances as described by security guards who were called to check on the Regulated Member.

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 Regulated Member's conduct constitutes unprofessional conduct under section (1)(1)(pp)(i)(ii) and (xii) of the *Health Professions Act*, 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.

The Hearing Tribunal finds that the Regulated Member breached the following provisions of the Practice Standards: **1.1, 1.2, 1.4, 2.4, 3.1, 3.4, 3.5, 5.2, 5.3, 5.6, 5.9**, 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.
- 1.4 The nurse practices competently.

**Standard Two: Knowledge-Based Practice**

The nurse continually acquires and applies knowledge and skills to provide competent, evidence-informed nursing care and service.

**Indicators**

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

**Standard Three: Ethical Practice**

The nurse complies with the Code of Ethics adopted by the Council in accordance with Section 133 of HPA and CARNA bylaws (CARNA, 2012).

**Indicators**

- 3.1 The nurse practices with honesty, integrity and respect.
- 3.4 The nurse communicates effectively and respectfully with clients, significant others and other members of the **health care team** to enhance client care and safety outcomes.
- 3.5 The nurse advocates for and contributes to establishing practice environments that have the organizational and human support systems, and the resource allocations necessary for safe, competent and ethical nursing care (See Appendix 4).

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

**5.6** The nurse regularly assesses their practice and takes the necessary steps to improve personal competence.

**5.9** The nurse ensures their *fitness to practice*.

The Hearing Tribunal finds that the Regulated Member breached the following provisions of the 2008 Code of Ethics: **A1 and 3, D10, F5, G1, 2, 4, and 9**, as follows:

#### **A. Providing Safe, Compassionate, Competent and Ethical Care**

Nurses provide safe, compassionate, competent and ethical care.

##### ***Ethical responsibilities:***

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 as well as with families, communities, groups, populations and other members of the **health-care team**.
3. Nurses build trustworthy relationships 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.

#### **D. Preserving Dignity**

Nurses recognize and respect the intrinsic worth of each person.

##### ***Ethical responsibilities:***

10. Nurses treat each other, colleagues, students and other health-care workers in a respectful manner, recognizing the power differentials among those in formal leadership positions, staff and students. They work with others to resolve differences in a constructive way. See Appendix D.

#### **F. Promoting Justice**

Nurses uphold principles of justice by safeguarding **human rights**, equity and **fairness** and by promoting the public good.

##### ***Ethical responsibilities:***

5. Nurses support a climate of trust that sponsors openness, encourages questioning the status quo and supports those who speak out to address concerns in good faith (e.g., **whistle-blowing**).

#### **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 of Ethics for Registered Nurses* and in keeping with the professional standards, laws and regulations supporting ethical practice.
2. Nurses are honest and practise with integrity in all of their professional interactions.
4. Nurses maintain their **fitness to practise**. If they are aware that they do not have the necessary physical, mental or emotional capacity to practise safely and competently, they withdraw from the provision of care after consulting with their employer or, if they are self-employed, arrange that someone else attend to their clients' health-care needs. Nurses then take the necessary steps to regain their fitness to practise.
9. Nurses share their knowledge and provide feedback, mentorship and guidance for the professional development of nursing students, novice nurses and other health-care team members. See Appendix D.

The Hearing Tribunal finds that the Regulated Member breached the following provisions of the 2017 Code of Ethics: **A1, 3, 4, 5 and 12, D13, F8, G1, 2, 4, 5, and 9**, as follows:

**A. Providing Safe, Compassionate, Competent and Ethical Care**

Nurses provide safe, compassionate, competent and ethical care.

**Ethical responsibilities:**

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 (see Appendix B).
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 (see Appendix B).
12. Nurses foster a safe, quality practice environment (CNA & Canadian Federation of Nurses Unions [CFNU], 2015).

## D. Honouring Dignity

Nurses recognize and respect the intrinsic worth of each person.

### *Ethical responsibilities:*

13. Nurses treat each other, colleagues, students and other health-care providers in a respectful manner, recognizing the power differentials among formal leaders, colleagues and students. They work with others to honour dignity and resolve differences in a constructive way.

## F. Promoting Justice

Nurses uphold principles of justice by safeguarding **human rights**, equity and **fairness** and by promoting the **public good**.

### *Ethical responsibilities:*

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., **whistleblowing**). Nurses protect whistle-blowers who have provided reasonable grounds for their concerns.

## 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.
2. Nurses are honest and practise with integrity in all of their professional interactions. Nurses represent themselves clearly with respect to name, title and role.
4. Nurses are accountable for their practice and work together as part of teams. When the acuity, complexity or variability of a person's health condition increases, nurses assist each other (LPNAPEI et al., 2014).
5. Nurses maintain their **fitness to practise**. If they are aware that they do not have the necessary physical, mental or emotional capacity to practise safely and competently, they withdraw from the provision of care after consulting with their employer. If they are self-employed, they arrange for someone else to attend to their clients' health-care needs. Nurses then take the necessary steps to regain their fitness to practise, in consultation with appropriate professional resources.
9. Nurses share their knowledge and provide feedback, mentorship and guidance for the professional development of nursing students, novice nurses, other nurses and other health-care providers (see Appendix B).

The breaches of the Practice Standards, the 2008 Code of Ethics, and the 2017 Code of Ethics are serious and constitute unprofessional conduct pursuant to section 1(1)(pp)(i)(ii) and (xii) of the HPA.

A nurse must conduct herself according to the provisions in the Practice Standards, the 2008 Code of Ethics, and the 2017 Code of Ethics regardless of her workplace. The Practice Standards are clear that they apply to all nurses at all times regardless of role or setting. The 2008 Code of Ethics and the 2017 Code of Ethics state that they are intended for nurses in all contexts and domains of nursing practice, including education.

## **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 and reviewed the Joint Recommendations (Exhibit #7). 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:*

This hearing deals with significant allegations that span a number of years and were caused by an addiction. The Regulated Member attended at work impaired. This is a serious problem and the Regulated Member acknowledges that.

2. *The age and experience of the member:*

The Regulated Member is a highly esteemed professor and a registered nurse for many years. She is in a leadership position and serves as a mentor and example to nursing students

3. *The previous character of the member:*

The Regulated Member served as a highly regarded professional until recently. She has had a few years of issues when she attended at work impaired. Addiction is a serious illness, and this has affected her ability to continue as a Registered Nurse.

4. *The age and mental condition of the offended patient:*

There are no specific patients involved in the allegations, but there is a serious impact on colleagues and on the reputation of [educational institution redacted].

5. *The number of times the offence was proven to have occurred:*

The offence was proven to have occurred multiple times over a number of years.

6. *The role of the registered nurse in acknowledging what occurred:*

The Regulated Member acknowledges that there has been a problem and is taking positive steps. She has signed a Consent Agreement (Exhibit #2), and a Permanent and Irrevocable Undertaking not to practise (Exhibit #8).

7. *Whether the member has already suffered other serious financial or other penalties:*

The history of CARNA's interactions with the Regulated Member is set out in the Consent Agreement (Exhibit #2). The Regulated Member has already been through a number of steps with CARNA in attempting to address these issues, and there are now some robust structures in place.

8. *The impact on the offended patient:*

Patients were not involved. The Regulated Member's conduct may impact students, [educational institution redacted], and other stakeholders who are involved with [educational institution redacted]. The Regulated Member's employer is impacted when a professor drives to work impaired by alcohol.

9. *The presence or absence of any mitigating factors:*

The Regulated Member's addiction is a mitigating factor, and she will now be able to focus on regaining her health.

10. *The need to promote specific and general deterrence:*

11. *The need to maintain public confidence:*

12. *Degree to which offensive conduct is outside the range of permitted conduct:*

With regard to factors 10, 11 and 12, Conduct Counsel noted that the Regulated Member's conduct is not acceptable. However, the Regulated Member has contributed a great deal to the profession of nursing and she is sincerely thanked for her contribution. Addiction is an illness that can hit anyone, and the Regulated Member is taking steps to regain her health.

**Submissions by the Labour Relations Officer for the Regulated Member:**

The Labour Relations Officer had no submissions.

**DECISION AND REASONS OF THE HEARING TRIBUNAL ON SANCTION**

The Hearing Tribunal has carefully considered the joint submissions on sanction, and the factors noted in *Jaswal*. The Hearing Tribunal accepts the joint recommended sanction. The joint recommendations take into account the nature of the findings of the Hearing Tribunal. They also address the issues that brought this Regulated Member before the Hearing Tribunal. The Hearing Tribunal finds that the recommended sanction appropriately considers the factors in *Jaswal*. The Hearing Tribunal further finds that the recommended sanction protects the public interest and is reasonable. The sanction sends a clear message to the public that the conduct is not acceptable and maintains the public confidence in the integrity of the profession.

The Regulated Member should take the comments in the written decision and the concerns expressed by the Hearing Tribunal with respect to her conduct as her reprimand.

### **ORDER OF THE HEARING TRIBUNAL**

The Hearing Tribunal orders that:

1. [name redacted] shall receive a reprimand for unprofessional conduct.
2. As [name redacted] is retiring, the Hearing Tribunal accepts [name redacted]'s permanent and irrevocable Undertaking to not practise as a Registered Nurse ever again.
3. Compliance with this Order:
  - a. Compliance with this Order shall be determined by the Complaints Director of CARNA. All decisions with respect to the Member's compliance with this Order will be in the sole discretion of the Complaints Director.
  - b. Should the Member 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 this Order as grounds to make a recommendation under 65 of the HPOA which may include suspension of the Member's practice permit.
  - c. The responsibility lies with the Member to comply with this Order. It is the responsibility of the Member to initiate communication with CARNA for any anticipated non-compliance and any request for an extension.
4. The Registrar will be requested to put the following conditions against the Member's Practice Permit (current and/or future). Effective February 21, 2020, notifications of the conditions shall be sent out to the Member's current employers (if any), the regulatory College for Registered Nurses in all Canadian provinces and territories, and other professional colleges with which the Member is also registered (if any). The condition to be placed against any current and future Practice Permits:
  - *Permanent & Irrevocable undertaking not to practise. (call CARNA)*
5. For clarification, as soon as this Order of the Hearing Tribunal takes effect, the previous conditions shall be expired as follows:
  - The conditions placed on her Practice Permit under the Section 65 *Health Professions Act* Order; and
  - The previous Undertaking not to practice.
6. This Order takes effect on February 21, 2020, 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,



Nancy Goddard, Chairperson  
On Behalf of the Hearing Tribunal  
Date of Order: February 21, 2020