

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF **TRACY GULEVICH**, R.N. REGISTRATION #78,677

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

**MAY 5, 2020**

## INTRODUCTION

A hearing was held on May 5, 2020 by WebEx videoconference by the Hearing Tribunal of the College and Association of Registered Nurses of Alberta (“CARNA”) to hear three complaints against Tracy Gulevich, R.N. registration #78,677.

Those present at the hearing were:

**a. Hearing Tribunal Members:**

Jason Anuik, Chairperson  
Bonnie Bazlik  
Shelley O’Neill  
Hugh Campbell, Public Representative

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

Mary Marshall

**c. CARNA Representative:**

Kate Whittleton, Conduct Counsel

**d. Regulated Member Under Investigation:**

Tracy Gulevich (sometimes hereinafter referred to as “the Regulated Member”)

## PRELIMINARY MATTERS

Conduct Counsel and 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.

Conduct Counsel confirmed that the matter was proceeding by Agreement. The Regulated Member confirmed that she would be proceeding without representation by counsel.

## ALLEGATIONS AND ADMISSION

**The allegations in the Notice to Attend for Complaint #1 are as follows:**

While employed as a Registered Nurse (RN) at a [Correctional Services Institution (“CSI”) in Alberta], [city redacted], Alberta, your practice fell below the standard expected of an RN when, despite prior discipline and coaching:

1. Between June 2016 and at least December 2017, you displayed a pattern of disrespect, and inappropriate and unprofessional behaviour towards [CSI] staff, including your subordinates, which contributed to an unhealthy workplace environment for [CSI] staff;

2. On multiple occasions between June 2016 and December 2017, your behaviour towards several Licensed Practical Nurses (“LPNs”) at [CSI] was unprofessional, disrespectful and caused or contributed to an unhealthy workplace environment, particulars of which include but are not limited to the following:
  - a. Expressing negative and condescending remarks against LPNs generally, on numerous occasions;
  - b. Directing profane language to one or more LPNs on multiple occasions, including in January, April and November 2017;
  - c. In or around March and April 2017, you made inappropriate comments about the physical appearance of two LPN staff members;
  - d. In or around April 2017, during a joint meeting between health care and mental health staff, you expressed that one LPN staff member was “not normal”;
  - e. In or around April 2017, you publicly reprimanded one LPN for a dispensing error in front of your entire department;
  - f. In or around June 5, 2017, you inappropriately disclosed to a co-worker that one of the LPN staff members, whom you named, had undergone a personal crisis;
  - g. In September and November 2017, you shared disparaging remarks and performance concerns about the work performance of individual staff members, including two LPNs, with other nurses and staff;
  - h. On or about May 24, 2017, you failed to maintain professional boundaries when you asked an LPN staff member about a personal phone call and her romantic life despite being advised that it was personal;
3. On multiple occasions between April and November 2017, your behaviour towards several staff members at [CSI] was unprofessional, disrespectful and caused or contributed to an unhealthy workplace environment for [CSI] staff, particulars of which include but are not limited to the following:
  - a. In or around April and May 2017, you used inappropriate and unprofessional language when you described your superior as “useless”, “stupid” and “an idiot” to two staff members;
  - b. In September 2017, when confronted with a medication error by an RN staff member, you exhibited inappropriate behaviour and used inappropriate language when you slammed your hands and loudly used a profanity;
  - c. In or around November 2017, you made comments about a colleague and other Mental Health staff at [CSI] that could reasonably be interpreted as condescending and inappropriate;
  - d. On or about November 14, 2017, you inappropriately disclosed confidential information about a subordinate failing a training test to other subordinates;
  - e. On or about November 3, 2017, you told a story to a staff member that could reasonably be interpreted as having a sexual element;
  - f. On or about December 3, 2017, you sent an inappropriate text message to nursing student (now RN), about a colleague;
4. On multiple occasions between June 2016 and May 2018, you breached confidentiality when you discussed your discipline history with [CSI] staff.

**The allegations in the Notice to Attend for Complaint #2 are as follows:**

While employed as a Registered Nurse at a [Correctional Services Institution (“**CSI**”) in Alberta], [city redacted], Alberta, your practice fell below the standard expected of an RN when:

1. While completing chart audits in preparation for [CSI]’s accreditation:
  - a. On or about March 12, 2018, you fraudulently or carelessly documented fabricated and/or inaccurate vital signs for [inmate 1];
  - b. On or about March 14, 2018, you fraudulently or carelessly documented fabricated and/or inaccurate vital signs for [inmate 2];
  - c. On or about March 14, 2018, you fraudulently or carelessly documented fabricated and/or inaccurate vital signs for [inmate 3];
  - d. Between March 26, 2018 and March 31, 2018, you revised your March 14, 2018 documentation of [inmate 3]’s vital signs multiple times in an attempt to conceal your fraudulent, careless or inaccurate documentation.

**The allegations in the Notice to Attend for Complaint #3 are as follows:**

While employed as a Registered Nurse at a [Correctional Services Institution (“**CSI**”) in Alberta], [city redacted], Alberta, your practice fell below the standard expected of an RN when, despite prior discipline and coaching:

1. Between September and at least December 2017, you displayed a pattern of disrespect, and inappropriate and unprofessional behaviour towards [CSI] staff, including your subordinates, which contributed to an unhealthy workplace environment for [CSI] staff;
2. On multiple occasions between September 2017 and December 2017, your behaviour towards several Licensed Practical Nurses (“LPNs”) at [CSI] was unprofessional, disrespectful and caused or contributed to an unhealthy workplace environment, particulars of which include but are not limited to the following:
  - a. Expressing negative and condescending remarks against LPNs generally, on multiple occasions;
  - b. In September and November 2017, you shared disparaging remarks and performance concerns about the work performance of individual staff members, including two LPNs, with other nurses and staff;
  - c. In or around November 2017, you directed profane language to one LPN staff member;

3. On multiple occasions between September and November 2017, your behaviour towards several staff members at [CSI] was unprofessional, disrespectful and caused or contributed to an unhealthy workplace environment for [CSI] staff, particulars of which include but are not limited to the following:
  - a. In or around September 2017, when confronted with a medication error by an RN staff member, you exhibited inappropriate behaviour and used inappropriate language when you slammed your hands and loudly used a profanity;
  - b. In or around November 2017, you made comments about a colleague and other Mental Health staff at [CSI] that could reasonably be interpreted as condescending and inappropriate;
  - c. On or about November 14, 2017, you inappropriately disclosed confidential information about a subordinate failing a training test to other subordinates;
  - d. On or about November 3, 2017, you told a story to a staff member that could reasonably be interpreted as having a sexual element;
  - e. On or about December 3, 2017, you sent an inappropriate text message to nursing student (now RN), about a colleague;
4. On multiple occasions between September 1, 2017 and at least December 2017, you breached confidentiality when you discussed your discipline history with [CSI] staff;
5. While completing chart audits in preparation for [CSI]'s accreditation:
  - a. On or about March 12, 2018, you fraudulently or carelessly documented fabricated and/or inaccurate vital signs for [inmate 1];
  - b. On or about March 14, 2018, you fraudulently or carelessly documented fabricated and/or inaccurate vital signs for [inmate 2];
  - c. On or about March 14, 2018, you fraudulently or carelessly documented fabricated and/or inaccurate vital signs for [inmate 3];
  - d. Between March 26, 2018 and March 31, 2018, you revised your March 14, 2018 documentation of [inmate 3]'s vital signs multiple times in an attempt to conceal your fraudulent, careless or inaccurate documentation.

The Regulated Member has admitted to the conduct in the amended allegations in the Consent Agreement (Exhibit #4) as follows:

***ADMISSION: First Notice to Attend – Appendix A-2:***

The Regulated Member admits to the following:

While employed as a Registered Nurse (RN) at a [Correctional Services Institution (“CSI”) in Alberta], [city redacted], Alberta, your practice fell below the standard expected of an RN when, despite prior discipline and coaching:

1. **[Amended]** Between June 2016 and at least December 2017, you failed to maintain professional boundaries and displayed a pattern of unprofessional behaviour towards [CSI] staff, including your subordinates, which contributed to an unhealthy workplace environment for [CSI] staff;  
 (“***Allegation A-2.1***”)

2. **[Amended]** On multiple occasions between June 2016 and December 2017, your behaviour towards several Licensed Practical Nurses (“**LPNs**”) at [CSI] was unprofessional and caused or contributed to an unhealthy workplace environment, particulars of which include but are not limited to the following:
  - a. Expressing negative and condescending remarks against LPNs generally, on numerous occasions;
  - b. **[Amended]** Expressing profane language to one or more LPNs on one or more occasions, including in January, April and November 2017;
  - c. **[Amended]** In or around March and April 2017, you made inappropriate comments about the appearance of one or more LPN staff members;
  - d. **[Withdrawn]**;
  - e. **[Amended]** In or around April 2017, you publicly reprimanded one LPN for a dispensing error;
  - f. **[Amended]** In or around June 5, 2017, you inappropriately disclosed personal information to a co-worker about one of the LPN staff members, whom you named;
  - g. In September and November 2017, you shared disparaging remarks and performance concerns about the work performance of individual staff members, including two LPNs, with other nurses and staff;
  - h. **[Amended]** On or about May 24, 2017, you failed to maintain professional boundaries when you asked unwanted questions of an LPN staff member about her personal life;

(“**Allegation A-2.2**”)

3. **[Withdrawn]**
  - a. **[Withdrawn]**
  - b. **[Withdrawn]**;
  - c. **[Withdrawn]**;
  - d. **[Withdrawn]**;
  - e. **[Withdrawn]**;
  - f. **[Withdrawn]**;
4. On multiple occasions between June 2016 and May 2018, you breached confidentiality when you discussed your discipline history with [CSI] staff.

(“**Allegation A-2.4**”)

**ADMISSION: Second Notice to Attend - Appendix B-2:**

The Regulated Member admits to the following:

While employed as a Registered Nurse at a [Correctional Services Institution (“**CSI**”) in Alberta], [city redacted], Alberta, your practice fell below the standard expected of an RN when:

1. While completing chart audits in preparation for [CSI]'s accreditation:
  - a. **[Amended]** On or about March 12, 2018, you carelessly documented fabricated and/or inaccurate vital signs for [inmate 1];
  - b. **[Amended]** On or about March 14, 2018, you carelessly documented fabricated and/or inaccurate vital signs for [inmate 2];
  - c. **[Amended]** On or about March 14, 2018, you carelessly documented fabricated and/or inaccurate vital signs for [inmate 3];
  - d. **[Amended]** Between March 26, 2018 and March 31, 2018, you revised your March 14, 2018 documentation of [inmate 3]'s vital signs multiple times in an attempt to conceal your careless or inaccurate documentation.

**(“Allegation B-2.1”)**

**ADMISSION: Third Notice to Attend - Appendix C-2:**

The Regulated Member admits to the following:

While employed as a Registered Nurse at a [Correctional Services Institution (“**CSI**”) in Alberta], [city redacted], Alberta, your practice fell below the standard expected of an RN when, despite prior discipline and coaching:

1. **[Withdrawn]**;
2. **[Withdrawn]**:
  - a. **[Withdrawn]**;
  - b. **[Withdrawn]**;
  - c. **[Withdrawn]**;
3. **[Amended]** On multiple occasions between September and November 2017, your behaviour towards several staff members at [CSI] was unprofessional and caused or contributed to an unhealthy workplace environment for [CSI] staff, particulars of which include but are not limited to the following:
  - a. **[Amended]** In or around September 2017, when confronted with a medication error by an RN staff member, you exhibited inappropriate behaviour and used inappropriate language when you slammed your hands on your knees and used a profanity;
  - b. In or around November 2017, you made comments about a colleague and other Mental Health staff at [CSI] that could reasonably be interpreted as condescending and inappropriate;
  - c. On or about November 14, 2017, you inappropriately disclosed confidential information about a subordinate failing a training test to other subordinates;
  - d. On or about November 3, 2017, you told a story to a staff member that could reasonably be interpreted as having a sexual element;

- e. **[Amended]** On or about December 3, 2017, you sent an inappropriate text message to nursing student (now RN), that could reasonably be interpreted to be about a colleague;

(“**Allegation C-2.3**”)

4. **[Withdrawn]**;
5. **[Withdrawn]**:
- a. **[Withdrawn]**;
- b. **[Withdrawn]**;
- c. **[Withdrawn]**;
- d. **[Withdrawn]**.

The Regulated Member further admits, and the Regulated Member and Conduct Counsel agree, that these behaviours in the amended allegations in the Consent Agreement (Exhibit #4) constitute unprofessional conduct under the HPA.

## EXHIBITS

The following documents were entered as Exhibits:

NUMBER	DESCRIPTION
<b>Exhibit #1:</b>	Notice to Attend a Hearing #1 by the Hearing Tribunal of the College and Association of Registered Nurses of Alberta – File 78,677-(17-18)-MAY08
<b>Exhibit #2:</b>	Notice to Attend a Hearing #2 by the Hearing Tribunal of the College and Association of Registered Nurses of Alberta – File 78,677-(17-18)-MAY25B
<b>Exhibit #3:</b>	Notice to Attend a Hearing #3 by the Hearing Tribunal of the College and Association of Registered Nurses of Alberta – File 78,677-(17-18)-NOV02
<b>Exhibit #4:</b>	Consent Agreement between Tracy Gulevich, #78,677 and Kate Whittleton, Conduct Counsel
<b>Exhibit #5:</b>	CARNA Practice Standards for Regulated Members (“Practice Standards”)
<b>Exhibit #6:</b>	2008 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses (“2008 Code of Ethics”) and 2017 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses (“2017 Code of Ethics”)
<b>Exhibit #7:</b>	Joint Recommendations for Sanction
<b>Exhibit #8:</b>	Course Outlines for Professional Boundaries in Nursing (BOUND007), and Documentation in Nursing (NURS 0162)
<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 for her cooperation in reaching the Consent Agreement. Conduct Counsel reviewed the Consent Agreement (Exhibit #4). Conduct Counsel advised that there were repetitive allegations in the three Notices to Attend (Exhibit #1, Exhibit #2, and Exhibit #3), and it was necessary to consolidate them. For that reason, allegations were amended or withdrawn for the purposes of the Consent Agreement (Exhibit #4). Conduct Counsel reviewed the agreed statement of facts that was submitted in support of the allegations, and the employer's complaint which followed the Regulated Member's termination from her employment. The Regulated Member is not working and has no current employer. The 2008 Code of Ethics and the 2017 Code of Ethics apply in this situation because the behaviour covered in the allegations occurred between 2016 and 2018.

Conduct Counsel submitted that the conduct constitutes unprofessional conduct under sections 1(1)(pp)(i), (ii) and (xii) of the HPA.

Conduct Counsel noted that the following Practice Standards were applicable:

Standards 1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 3.1, 3.4, 3.5, 4.2, 4.3, 5.2, 5.3, and 5.6.

Conduct Counsel also noted that the following provisions from the 2008 Code of Ethics applied:

Responsibilities: A1, A3 and A4; B3; D10; F2, F3 and F5; and G1, G2 and G9.

Conduct Counsel also noted that the following provisions from the 2017 Code of Ethics applied:

Responsibilities: A1, A4, A12, A14, and A15; B4; D13; F3, F4, and F8; and G1, G2, G4 and G9.

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

### **Submissions by the Regulated Member:**

The Regulated Member advised she had no submissions. Her remarks and observations were in the documents that were before the Hearing Tribunal.

### **Questions from the Hearing Tribunal:**

The Hearing Tribunal requested further submissions on the applicability of Responsibility D1 in the 2008 Code of Ethics, and Responsibility F5 in the 2017 Code of Ethics. Conduct counsel advised she was in agreement that Responsibility D1 in the 2008 Code, and Responsibility F5 in the 2017 Code were applicable in this situation. The Regulated Member stated that she had no submissions on the applicability of these provisions.

## **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 Hearing Tribunal determined that the Allegations should be amended as set out in the Consent Agreement (Exhibit #4).

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) 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: Standards 1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 3.1, 3.4, 3.5, 4.2, 4.3, 5.2, 5.3, and 5.6, 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**

- 2.1 The nurse supports decisions with evidence-based rationale.
- 2.2 The nurse uses appropriate information and resources that enhance client care and the achievement of desired client outcomes.

- 2.3 The nurse uses critical inquiry in collecting and interpreting data, planning, implementing and evaluating all aspects of their nursing practice.
- 2.4 The nurse exercises reasonable judgment and sets justifiable priorities in practice.
- 2.5 The nurse documents timely, accurate reports of data collection, interpretation, planning, implementation and evaluation of nursing practice.
- 2.7 The nurse applies nursing knowledge and skill in providing safe, competent, ethical care and service.

### **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 Four: Service to the Public**

The nurse has a duty to provide safe, competent and ethical nursing care and service in the best interest of the public.

#### **Indicators**

- 4.2 The nurse collaborates with the client, significant others and other members of the health-care team regarding activities of care planning, implementation and evaluation.
- 4.3 The nurse effectively assigns care or nursing service and supervises others when appropriate or required to enhance client outcomes.

### **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.

The Hearing Tribunal finds that the Regulated Member breached the following provisions of the 2008 Code of Ethics: Responsibilities: A1, A3 and A4; B3; D1 and D10; F2, F3 and F5; and G1, G2 and G9, 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.
4. Nurses question and intervene to address unsafe, non-compassionate, unethical or incompetent practice or conditions that interfere with their ability to provide safe, compassionate, competent and ethical care to those to whom they are providing care, and they support those who do the same. See Appendix D.

### **B. Promoting Health and Well-Being**

Nurses work with people to enable them to attain their highest possible level of health and well-being.

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

3. Nurses collaborate with other health-care providers and other interested parties to maximize health benefits to persons receiving care and those with health-care needs, recognizing and respecting the knowledge, skills and perspectives of all.

### **D. Preserving Dignity**

Nurses recognize and respect the intrinsic worth of each person.

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

1. Nurses, in their professional capacity, relate to all persons with respect.
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:***

2. Nurses refrain from judging, labelling, demeaning, stigmatizing and humiliating behaviours toward persons receiving care, other health-care professionals and each other.
3. Nurses do not engage in any form of lying, punishment or torture or any form of unusual treatment or action that is inhumane or degrading. They refuse to be complicit in such behaviours. They intervene, and they report such behaviours.
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.
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, A4, A12, A14, and A15; B4; D13; F3, F4, F5, and F8; and G1, G2, G4 and G9, 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**.
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).

12. Nurses foster a safe, quality practice environment (CNA & Canadian Federation of Nurses Unions [CFNU], 2015).
14. When differences among members of the health-care team affect care, nurses seek constructive and collaborative approaches to resolving them and commit to conflict resolution and a person-centred approach to care.
15. Nurses support each other in providing person-centred care.

## **B. Promoting Health and Well-Being**

Nurses work with persons who have health-care needs or are receiving care to enable them to attain their highest possible level of health and well-being.

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

4. Nurses collaborate with other health-care providers and others to maximize health benefits to persons receiving care and with health-care needs and concerns, recognizing and respecting the knowledge, skills and perspectives of all.

## **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:***

3. Nurses refrain from judging, labelling, stigmatizing and humiliating behaviours toward persons receiving care or toward other health-care providers, students and each other.
4. Nurses do not engage in any form of lying, punishment or torture or any form of unusual treatment or action that is inhumane or degrading. They refuse to be complicit in such behaviours. They intervene, and they report such behaviours if observed or if reasonable grounds exist to suspect their occurrence.
5. Nurses provide care for all persons including those seen as victims and/or abusers and refrain from any form of **workplace bullying** (CNA, 2016a).

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).
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 and the Code of Ethics are serious and constitute unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA. The Regulated Member failed to treat colleagues in a respectful manner. The documentation of care was inadequate and incomplete.

### **MEMBER'S STATEMENT**

The Regulated Member was affirmed, and gave a brief statement. The past five years have been very difficult and educational, and it has been a challenge to remain optimistic and productive. She has been a nurse for 34 years, and she has enjoyed many different facets of nursing. The Regulated Member is able to see where she has made grave errors and mistakes. She blurred boundaries. She was not malicious. She is not someone who yells, swears or belittles people. The Regulated Member wants to retire in good standing, and she will ensure that this happens.

### **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). Exhibit #8 contains the course outlines for Professional Boundaries in Nursing (BOUND007), and Documentation in Nursing (NURS 0162), which are the two courses referred to in the Joint Recommendations (Exhibit #7).

Conduct counsel reviewed the proposed sanctions. The sanctions include a reprimand, fine and counselling. The penalty is designed to protect the public and send a message to the profession.

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:*

These are serious allegations that the Regulated Member failed to maintain professional boundaries. The Regulated Member was careless in her documentation of three patients' vital signs and then revised the records to correct the careless documentation.

2. *The age and experience of the member*

The Regulated Member has been an RN for more than three decades, and she has been registered in Alberta since 2005. The Regulated Member should be well aware of her responsibilities.

3. *The previous character of the member:*

The Regulated Member has no prior discipline history with CARNA, and this is a mitigating factor.

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

The patients are inmates at [CSI]. The allegations do not include the age and mental condition of the patients as there are no allegations relating to direct patient care. However, all patients should have up-to-date health care records.

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

The behaviours toward colleagues occurred over 18 months. It was not an isolated incident. The charting issues occurred several times in March 2018.

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

The Regulated Member has admitted to the amended allegations in the Consent Agreement (Exhibit #4), and admitted that they constitute unprofessional conduct. Therefore, this is considered a mitigating factor.



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

The Regulated Member was terminated from her position at [CSI] and has not practised since her termination, which is a mitigating factor. This has an impact as to the amount of the fine in the Joint Recommendations (Exhibit #7). The amount of the fine is secondary to what it signifies to the Regulated Member and other members of CARNA.

8. *The impact on the offended patient:*

No patients were impacted directly by the Regulated Member's conduct, although up-to-date information is important for all patients. The Regulated Member's behaviour had a significant impact on her colleagues.

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

There are no additional mitigating circumstances other than what has been already identified in Conduct Counsel's earlier comments.

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:*

Regarding the last three of the *Jaswal* factors, the Regulated Member's conduct was unacceptable, and the Regulated Member has admitted that it constitutes unprofessional conduct. The Joint Recommendations for sanction that have been submitted are sufficient to address the last three factors. Regarding specific deterrence, as indicated in her statement to the Hearing Tribunal, it is the Regulated Member's goal to retire in good standing. The sanction and process before CARNA will contribute to that goal. General deterrence is the deterrence of other CARNA members by showing that unprofessional conduct will not be tolerated. The reprimand, fine, and remedial orders are an important part of general and specific deterrence. The fine sends a clear message to the Regulated Member, CARNA membership and the public that the Regulated Member's conduct is unacceptable. The Regulated Member will have to complete a performance evaluation. Therefore, the public can be confident that any future problems will be brought to the attention of CARNA.

**Submissions by the Regulated Member:**

The Regulated Member advised that she had no submissions on the proposed sanction or the *Jaswal* factors.

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

The Hearing Tribunal has carefully considered the joint recommendations on sanction and the submissions of the parties. The Hearing Tribunal has considered the factors noted in *Jaswal v. Newfoundland Medical Board*. 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 this recommended sanction appropriately considers the factors in

*Jaswal.* The Hearing Tribunal finds that the recommended sanction protects the public interest and is reasonable.

The Regulated Member should take the comments in the written decision as well as the concerns expressed by the Hearing Tribunal with respect to her conduct as her reprimand. In addition, the Regulated Member should consider her experiences in dealing with this complaint before this Hearing Tribunal and CARNA, and her experiences with her former employer and co-workers, as well as the joint submissions on sanction, as a reminder of how important it is to practise in accordance with the Practice Standards and Code of Ethics.

### **ORDER OF THE HEARING TRIBUNAL: SANCTION AND PUBLICATION**

The Tribunal accepted the joint recommendations as follows:

1. The Regulated Member, Tracy Gulevich (the “**Regulated Member**”), shall receive a reprimand.
2. By no later than **January 15, 2021** the Regulated Member shall provide proof satisfactory to the Complaints Director that she has successfully completed and passed the following courses of study:
  - a. *Documentation in Nursing (NURS0162 – MacEwan University);*
  - b. *John Collins Professional Boundaries in Nursing (BOUND007).*
3. The Regulated Member shall pay a fine to CARNA, in the amount of **\$500.00** payable upon the following terms:
  - a. The total amount to be paid on or before **May 5, 2021**, either by instalments (whereby all instalments are paid on or before May 5, 2021), or in one lump sum payment, by the end of business day, namely 4:00 p.m.;
  - b. The usual terms of fine payment as per section 82(3)(c) of the *Health Professions Act* apply whereby the Regulated Member may be automatically suspended for non-payment.
4. The Regulated Member shall undergo individual counseling/tutoring with a counselor/tutor (psychologist, registered nurse or other health care professional approved by the Complaints Director), who has knowledge of the appropriate communication skills and appropriate behaviours toward other persons expected of a registered nurse, and is familiar with the Nursing Practice Standards and Code of Ethics for Registered Nurses in Alberta.
  - a. The counselor/tutor shall be approved by the Complaints Director prior to commencing the counseling/tutoring.
  - b. The Regulated Member shall submit the name and CV of the proposed counselor/tutor to the Complaints Director for approval no later than **July 15, 2020**;
  - c. The Regulated Member shall provide a letter to the Complaints Director from the proposed counselor/tutor no later than **September 5, 2020**, confirming that the proposed counselor/tutor:
    - i. Has read and has a copy of the Decision of the Hearing Tribunal (including allegations, findings and Order);

- ii. Has knowledge of the appropriate communications expected of a Registered Nurse with patients and with other members of the health care team; and is familiar with the Practice Standards and Code of Ethics for Registered Nurses in Alberta; agrees to assist the Regulated Member to:
    - Eliminate the inappropriate, offensive behaviours toward co-workers;
    - Improve her communication skills and behaviours toward co-workers, and all other persons in the workplace, so that she is communicating and behaving in a respectful, polite manner and is otherwise compliant with the Nursing Practice Standards and Code of Ethics.
  - iii. Agrees to do a minimum of **ten (10) individual counselling/tutoring sessions** with the Regulated Member, and will provide the report to the Complaints Director as outlined below.
5. The Regulated Member shall provide a report from the counselor/tutor mentioned in paragraph 4 above by **November 5, 2020**, which must be satisfactory to the Complaints Director, and which must include the following:
- a. The counselor/tutor must confirm he/she has read the Decision of the Hearing Tribunal (including allegations, findings and Order);
  - b. The counselor/tutor must confirm that the Regulated Member has attended a minimum of **ten (10) sessions**. If the counselor/tutor determined that ten (10) sessions were not required to meet the objectives, and explains that in the report, the Complaints Director may accept fewer sessions;
  - c. The counselor/tutor must describe the work that has been done with the Regulated Member to mentor, coach and assist the Regulated Member to:
    - i. Eliminate the inappropriate, offensive behaviours toward co-workers;
    - ii. Improve her communication skills and behaviours toward co-workers, and all other persons in the workplace, so that she is communicating and behaving in a respectful, polite manner and is otherwise compliant with the Nursing Practice Standards and Code of Ethics, as they relate to interpersonal interactions.
  - d. The counselor/tutor must confirm that the Regulated Member has demonstrated insight into the problems with her communications and behaviours toward co-workers and all other persons and has demonstrated insight into how to improve her communication and behaviours.
  - e. The counselor/tutor must confirm that in his/her opinion the Regulated Member is unlikely to communicate or behave in an inappropriate manner in the workplace in future.
6. The Regulated Member shall create and provide to the Complaints Director a Workplace Communication/Behaviour Improvement Plan (the “**Plan**”) by no later than **November 5, 2020**, or prior to the Regulated Member next commencing employment as a Registered Nurse, whichever occurs first. The Plan shall consist of the following:
- a. The Regulated Member shall create a list of at least 10 unhelpful/offensive communication habits or behaviours that she has had that may inhibit effective

- communication with others in the workplace, or may be offensive to others in the workplace;
- b. For each of those 10 unhelpful/offensive/ communication habits or behaviours, the Regulated Member shall come up with a written plan of how she will practice eliminating that negative habit or behavior and replacing it with a positive communication strategy;
  - c. The Regulated Member will create a list of indicators that will tell her new communication strategies are successful;
  - d. The Regulated Member shall list and summarize the sections of the Nursing Practice Standards and Code of Ethics that specifically address the manner in which RNs are expected to communicate with and behave toward other persons;
  - e. The Regulated Member shall provide the Complaints Director with specific examples of how she has implemented the changes outlined in the Plan.
7. Prior to next commencing employment as a Registered Nurse, the Regulated Member shall provide to the Complaints Director a letter from her prospective employer that:
- a. Advises of the anticipated employment setting and workplace;
  - b. Confirms an RN Manager at the employment setting has read the Decision in this matter, including the allegations, findings and Order;
  - c. Confirms the RN Manager has received a copy of the Plan described in paragraph 6 above;
  - d. Indicates that the RN Manager is prepared to provide CARNA **one (1) Performance Evaluation (the "Performance Evaluation")** on the Regulated Member, on the terms set out in paragraph 9 below; and
  - e. Confirms the RN manager will notify CARNA **immediately** of any issues related to the Regulated Member's practice.
8. The employment setting and letter from employer required under paragraph 7 above must be approved by the Complaints Director. There must be sufficient detail in the letter to satisfy the Complaints Director that the RN Manager at the site will be able to provide the Performance Evaluation on the terms set out in paragraph 9 below.
9. The terms of the Performance Evaluation are as follows:
- a. The fact that each of these terms of the Performance Evaluation has been complied with will be mentioned in the Performance Evaluation;
  - b. The RN Manager shall confirm that he/she has seen a copy of this Decision (including Allegations, Findings and Order);
  - c. The Performance Evaluation is due within **nine (9) months** from the date the Regulated Member complies with paragraph 7 above, or **1,000 hours of nursing practice**, whichever occurs later;
  - d. The RN Manager will:
    - i. Personally observe and obtain feedback from Registered Nurses who work the same shifts or roles that the Regulated Member is working, and who have had ample opportunity to observe all aspects of the Regulated Member's nursing practice; and

- ii. Obtain feedback from other members of the health care team, patients and their families, and will do chart audits.
  - e. The RN Manager will confirm that the Regulated Member was never the only RN on duty on the unit (a unit means approximately no more than 60 patients in close physical proximity) and that there was always at least one other RN working with her, on the same shift, on the same unit;
  - f. The Performance Evaluation must indicate that the Regulated Member's communication style and behaviours toward her co-workers, patients and all others in the workplace is respectful, polite and complies with the Nursing Practice Standards and the Code of Ethics.
  - g. The Performance Evaluation must be satisfactory to the Complaints Director and indicate that the Regulated Member is performing to the standard expected of a registered nurse. The Performance Evaluation must also specifically comment on the following:
    - i. Charting, all aspects, plus narcotic records and incident reports;
    - ii. Taking responsibility to ask questions or find necessary information;
    - iii. Specific skills that are necessary on the unit;
    - iv. Professional responsibility;
    - v. Communication style with patients, families or patients, co-workers, and all others in the workplace – whether it is respectful, polite and complies with the Nursing Practice Standards and the Code of Ethics;
    - vi. Following the policies of the unit regarding all aspects of nursing practice;
    - vii. Any other issues that the RN Manager thinks is relevant.
  - h. The Performance Evaluation must incorporate the elements of the Plan and indicate whether the Regulated Member has successfully implemented the Plan. The Performance Evaluation may be in the form of a checklist with room for comments or in the form of a detailed letter signed by the RN Manager.
- 10. From the date the Complaints Director approves an employment setting pursuant to paragraphs 7 and 8 above, and until the Regulated Member has complied with paragraph 9 above, the Regulated Member is prohibited from working in any setting other than the approved setting. In the event the Regulated Member wants to change employers or employment sites prior to fully complying with paragraph 9 above:
  - a. The Regulated Member shall request permission from the Complaints Director who will have to approve the new employer or employment setting;
  - b. The Performance Evaluation, as per paragraph 9, shall be required from the RN Manager up to the date the Regulated Member's employment ended (if ended) and from the new employer as well, on the terms set out in paragraph 9.

## COMPLIANCE

11. Compliance with this Order shall be determined by the Complaints Director of CARNA. All decisions with respect to the Regulated Member's compliance with this Order will be in the sole discretion of the Complaints Director.
12. 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 the Regulated Member 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.
13. Should the Regulated 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 section 65 of the HPA which may include suspension of the Regulated Member's practice permit.
14. The responsibility lies with the Regulated Member to comply with this Order. It is the responsibility of the Regulated Member to initiate communication with CARNA for any anticipated non-compliance and any request for an extension.

## CONDITIONS

15. The Registrar of CARNA will be requested to put the following condition(s) against the Regulated Member's practice permit (current and/or future), and shall remain until the condition is satisfied:
  - a. ***Must pay fine (call CARNA);***
  - b. ***Course work required (call CARNA);***
  - c. ***Performance Evaluation(s) required (call CARNA);***
  - d. ***Letter from Employer(s) required (call CARNA);***
  - e. ***Counselling required (call CARNA);***
  - f. ***Shall develop behavior/professional development plan (call CARNA);***
  - g. ***Restricted re Employment Setting (call CARNA).***
16. Effective **May 5, 2020**, or the date of this Order, if different from the date of the Hearing, notifications of the above condition(s) shall be sent out to the Regulated Member's current employer(s) (if any), the regulatory colleges for Registered Nurses in all Canadian Provinces and Territories, and other professional colleges with which the Regulated Member is registered (if any).
17. Once the Regulated Member 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.

18. This Order takes effect **May 5, 2020**, and remains in effect pending the outcome of any appeal, unless a stay is granted pursuant to Section 86 of the *Health Professions Act*.

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

Respectfully submitted,

A handwritten signature in black ink that reads "Jason Anuik". The signature is written in a cursive, flowing style.

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Jason Anuik, Chairperson  
On Behalf of the Hearing Tribunal

Date of Order: May 5, 2020