

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF **RONDA BIST**, R.N. REGISTRATION #81,917

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

DECEMBER 2, 2020

INTRODUCTION

A virtual hearing was held on December 2, 2020 by the Hearing Tribunal of the College and Association of Registered Nurses of Alberta (“CARNA”) to hear a complaint against Ronda Bist, R.N. registration #81,917.

Those present at the hearing were:

a. Hearing Tribunal Members:

Jason Anuik, Chairperson
Christa Eaton
Shelley O’Neill
Hugh Campbell, Public Representative

b. Independent Legal Counsel to the Hearing Tribunal:

Julie Gagnon

c. CARNA Representative:

Vita Wensel, Conduct Counsel

d. Regulated Member Under Investigation:

Ronda Bist (sometimes hereinafter referred to as “the Regulated Member”)

e. Regulated Member’s Labour Relations Officer:

Martin d’Entremont

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.

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 about September 15, 2018, the Regulated Member failed to adequately communication [sic] with Patient 1 during her care, contrary to the Practice Standards for Regulated Members (2013) (“CPSRM”) and the Canadian Nurses Code of Ethics, 2017 edition (“CNACE”).

2. On or about September 15, 2018, the Regulated Member failed to adequately assess Patient 1's swollen hand, contrary to the CPSRM and the CNACE.
3. On or about September 16, 2018, the Regulated Member failed to demonstrate adequate judgment by placing the BP cuff on Patient 1's left arm where an IV was inserted, contrary to the CPSRM and the CNACE.
4. On or about September 16, 2018, the Regulated Member failed to adequately respond to Patient 1's pain about the BP cuff on her left arm, contrary to the CPSRM and the CNACE.

The Regulated Member has admitted to the conduct in the allegations in the Agreed Statement of Facts and Liability Agreement (Exhibit #2).

EXHIBITS

The following documents were entered as Exhibits:

Exhibit #1 – *Jaswal v. Newfoundland Medical Board*, 1996 CanLii 116330 (NL SC);

Exhibit #2 – Agreed Statement of Facts and Liability Agreement (the "Agreement");

Exhibit #3 – Agreed Statement of Facts and Liability Agreement Appendices (the "Appendices");

Exhibit #4 – Joint Recommendation on Sanction;

Exhibit #5 – Course outlines for Relational Practice and Communication course; Responsible Nursing course and Introduction to Health Assessment course.

SUBMISSIONS ON THE ALLEGATIONS

Submissions by Conduct Counsel:

Conduct Counsel made brief submissions. Conduct Counsel thanked the Regulated Member for her cooperation in entering into an agreement. Conduct Counsel encouraged the Hearing Tribunal to accept the factual admissions in the Agreement (Exhibit #2). Conduct Counsel referenced some of the Appendices that included assessment notes, patient records and a written apology by the Regulated Member to the patient (Exhibit #3, Appendices F, G, H and I).

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

Conduct Counsel submitted that the following sections of the CPSRM were applicable: Standards 2.1, 2.2, 2.3, 2.4, 2.7, 3.4, 4.2, 4.4. Conduct Counsel also noted that the following provisions from the CNACE applied: A1, A2, A3, A7, B1, B4, C1, D1, D2.

Conduct Counsel noted there may be other applicable provisions, but that in her view, these were applicable. Conduct Counsel asked for the opportunity to make submissions if additional sections of the CPSRM or CNACE were considered by the Hearing Tribunal.

Submissions by the Labour Relations Officer for the Regulated Member:

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

Questions from the Hearing Tribunal:

After adjournment to consider the Agreement, Appendices and submissions, the Hearing Tribunal advised the parties that it was considering adding in sections 1.2 and 3.1 of the CPSRM and asked for any further submissions of the parties. Conduct Conduct and the Labour Relations Officer for the Regulated Member each advised that they had no further submissions on these sections.

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 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 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.

The Hearing Tribunal accepts the facts as admitted to in the Agreement (Exhibit #2).

The patient attended Foothills Emergency Department due to gastrointestinal concerns, vomiting blood and was in initial stages of renal failure. The patient was admitted to Unit 36 on September 14, 2018. The Regulated Member was assigned to the patient on September 15, 2018 and September 16, 2018. The patient was discharged on September 17, 2018.

The Regulated Member did not adequately communicate her care with the patient and sometimes checked in by attending at the door of the patient's room and did not approach the patient.

The Regulated Member did not assess the patient's hands adequately after she noted generalized edema in the patient's hands. The Regulated Member did not complete additional assessments, such as squeezing or touching the patient's hands or comparing them to each other, despite the patient complaining of swelling in her hand and the Regulated Member noting that two IVs were running at the time.

The Regulated Member placed the BP cuff on left arm at 13:57 when the patient had an IV in her left arm. Furthermore, the Regulated Member did not remove the BP cuff as it deflated when the

patient yelled at the Regulated Member that she was in pain. The patient ripped the BP cuff off after it finished deflating and threw it on the ground.

The Regulated Member sent a written apology to the patient during the workplace investigation.

The Hearing Tribunal finds that the conduct by the Regulated Member displayed a lack of knowledge of or lack of skill or judgment in the provision of professional services. The ability to communicate appropriately and effectively with a patient is at the heart of providing patient care. In addition, the ability to assess a patient and the use of a BP cuff are skills expected of all registered nurses.

The Hearing Tribunal finds that the Regulated Member breached the following provisions of the CPSRM: 1.2, 2.1, 2.2, 2.3, 2.4, 2.7, 3.1, 3.4, 4.2, 4.4, as follows:

Standard One: Responsibility and Accountability

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

Indicators

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

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.
- 2.7 The nurse applies nursing knowledge and skill in providing safe, competent, ethical care and service.

Standard Three: Ethical Practice

The registered nurse complies with the *Code of Ethics* adopted by the Council in accordance with Section 133 of *Health Professions Act* 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.

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.
- 4.4 The nurse explains nursing care to clients and significant others.

The Hearing Tribunal finds that the Regulated Member breached the following provisions of the CNACE: A1, A2, A3, A7, B1, B4, C1, D1, D2, 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**.
2. Nurses engage in compassionate care through their speech and body language and through their efforts to understand and care about others' health-care needs.
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.
7. When resources are not available to provide appropriate or safe care, nurses collaborate with others to adjust priorities and minimize harm. Nurses keep persons receiving care informed about potential and actual plans regarding the delivery of care. They inform employers about potential threats to the safety and quality of health 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:

1. Nurses provide care directed first and foremost toward the health and well-being of persons receiving care, recognizing and using the values and principles of **primary health care**.
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.

C. Promoting and Respecting Informed Decision-Making

Nurses recognize, respect and promote a person's right to be informed and make decisions.

Ethical responsibilities:

1. Nurses provide persons receiving care with the information they need to make informed and autonomous decisions related to their health and well-being. They also work to ensure that health information is given to those persons in an open, accurate, understandable and transparent manner.

D. Honouring Dignity

Nurses recognize and respect the intrinsic worth of each person.

Ethical responsibilities:

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.

The breaches of the CPSRM and the CNACE constitute unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA. The Regulated Member's conduct breached sections of the CPSRM and CNACE that are fundamental expectations of all registered nurses. The Regulated Member did not show critical inquiry in assessing the patient and did not exercise reasonable judgment or appropriate nursing knowledge. She did not show respect or communicate effectively with the patient. The Regulated Member did not demonstrate compassionate care or build a trustworthy relationship with the patient.

Finally, the Hearing Tribunal finds that the conduct of the Regulated Member harms the integrity of the profession. The public expects that patients receiving care from a registered nurse will receive appropriate and compassionate care and that the registered nurse will communicate with the patient and exercise professional judgment and nursing knowledge.

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 Recommendation on Sanction (Exhibit #4).

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 this conduct was on the lower end of the spectrum. However, this does not take away from what occurred and the patient suffered harm and did not trust the Regulated Member.
2. The age and experience of the member: The Regulated Member has been registered with CARNA since 2006.
3. The previous character of the member: The Regulated Member has no disciplinary record or prior complaints.
4. The age and mental condition of the offended patient: The patient was in hospital and in a vulnerable state.
5. The number of times the offence was proven to have occurred: Conduct Counsel noted that this was a single incident, although it took place over two days. It was an interaction with one patient, and there is no demonstrated pattern of conduct.
6. The role of the registered nurse in acknowledging what occurred: The Regulated Member has acknowledged what occurred, she sent an apology to the patient close in time to the incident, and came to an admission and consent hearing in a timely manner.
7. Whether the member has already suffered other serious financial or other penalties: Conduct Counsel indicated there were no other financial or other penalties.
8. The impact on the offended patient: The patient complaint provides information about the impact on the patient.
9. The presence or absence of any mitigating factors: No mitigating factors were noted, other than those already mentioned above.
10. The need to promote specific and general deterrence: Conduct Counsel indicated that this sanction meets the goals of specific and general deterrence. There is a remedial aspect to the sanction, which is appropriate here. The reprimand and educational components are appropriate here.
11. The need to maintain public confidence: The educational component will provide a chance to remediate the conduct and the opportunity for the Regulated Member to reflect on the conduct. The proposed sanction is satisfactory to maintain the public's confidence in the profession.

Conduct Counsel advised that the Complaints Director was not seeking any costs in this case.

Submissions by the Labour Relations Officer for the Regulated Member:

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

DECISION AND REASONS OF THE HEARING TRIBUNAL ON SANCTION

The Hearing Tribunal carefully considered the exhibits provided and the submissions made. The Hearing Tribunal finds that the proposed sanction is reasonable and protects the public interest. The reprimand is appropriate to denounce the conduct and the educational component will serve as a remedial aspect. The courses proposed will allow an opportunity to ensure the Regulated Member remediates her conduct and provides an opportunity for self-reflection.

The Hearing Tribunal finds that the proposed sanction is fair and reasonable. In particular, the Hearing Tribunal noted that the Regulated Member had no prior incidents and has worked as a Registered Nurse for a number of years without any concerns.

Finally, the Hearing Tribunal finds that the goals of specific and general deterrence are met and that the public's confidence is maintained through the proposed orders.

ORDER OF THE HEARING TRIBUNAL

The Hearing Tribunal orders that:

1. The Regulated Member, RONDA BIST, #81,917 (the "Regulated Member"), shall receive a reprimand for unprofessional conduct.
2. By no later than April 2, 2021, the Regulated Member shall proof satisfactory to the Complaints Director, that the Regulated Member has successfully completed and passed the following courses of study:
 - a. Relational Practice and Communication (NURS 0173 MacEwan University);
 - b. Responsible Nursing (NURS 0170 MacEwan University); and
 - c. Introduction to Heath Assessment (NURS 0163 MacEwan University).(the "Condition(s)").
3. The Regulated Member will provide proof of completion of the above-noted Conditions to the Complaints Director via e-mail to procond@nurses.ab.ca.

COMPLIANCE

4. 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.

5. 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 *HPA*.
6. 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

7. The Regulated Member confirms the following list sets out all the Regulated Member's employers and includes all employers even if the Regulated Member is under an undertaking to not work, is on sick leave or disability leave, or if the Regulated Member 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 Regulated Member confirms the following employment:

AHS Foothills Medical Centre Unit 36 – 1403 29th Street NW, Calgary, Alberta
8. The Regulated Member understands and acknowledges that it is the Regulated Member's professional responsibility to immediately inform CARNA of any changes to the Regulated Member'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*.
9. The Registrar of CARNA will be requested to put the following condition against the Regulated Member's practice permit (current and/or future) and shall remain until the condition is satisfied:
 - a. Course work required – Arising from a Disciplinary Matter.
10. Effective December 2, 2020, notifications of the above condition shall be sent out to the Regulated 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 Regulated Member is also registered (if any).
11. 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 colleges in the other Canadian jurisdictions.
12. This Order takes effect on December 2, 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,

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

Jason Anuik, Chairperson
On Behalf of the Hearing Tribunal

Date of Order: **December 2, 2020**