

NOTICE OF HEARING OF COMPLAINT

TO: CAROL ANN BRANDER


A. JURISDICTION

1. At all times material to the charges set out below you were on the Register and were a member of the Saskatchewan Registered Nurses Association (“SRNA”);
2. At the time of the incidences contained in the charges, your licence with the SRNA to practice registered nursing in Saskatchewan was in place and was in effect through to November 30, 2020;
3. The Investigation Committee of the SRNA reviewed and investigated the complaint regarding your competence and, pursuant to paragraph 28(3)(a) of *The Registered Nurses Act, 1988*, hereby recommends that the Discipline Committee hear and determine a formal complaint regarding the charges contained below.

B. CHARGES

Charge Number 1

4. You, CAROL ANN BRANDER, are alleged to be guilty of professional incompetence contrary to section 25 of *The Registered Nurses Act, 1988*, regarding events that occurred between the dates of November 1, 2016 and August 1, 2019 as follows:
 - (a) You were unable to practice independently as a registered nurse except for a short period of time despite three gradual return to work placements, with restrictions on your nursing practice;
 - (b) You demonstrated consistent and repeated patterns of incompetence despite frequent education from clinical nurse educators, with no significant improvement following the said education;
 - (c) You exhibited an inability to perform basic nursing skills thus causing significant safety and registered nursing practice concerns;
 - (d) You displayed significant safety concerns related to the administration and documentation of medication, including narcotics;
 - (e) You had an inability to prioritize registered nursing work and to carry out the entire registered nursing process;
 - (f) You exhibited an inability to follow policy and procedures despite being required to read, sign and study the policies and procedures;
 - (g) You frequently failed to follow basic infection control practices; and

- (h) Despite ongoing monitoring, coaching and education, there was no significant improvement in your competency. You failed to recognize the degree to which you lacked the knowledge, skill or judgement required. Your actions demonstrated that you were unfit to continue in the practice of registered nursing.

Charge Number 2

5. You, CAROL ANN BRANDER, are alleged to be guilty of professional misconduct and/or professional incompetence contrary to sections 25 and 26 of *The Registered Nurses Act, 1988* regarding events that occurred between the dates of November 1, 2016 and September 6, 2019. You presented to work while under the influence of medication which impaired your cognition. You presented to work while in pain and fatigued thus impairing your cognition and ability to practice as a registered nurse. You failed to recognize that you were unfit to practice registered nursing and to remove yourself from working as an RN. You failed to advise your employer that you were unfit to practice registered nursing.

C. RELEVANT LEGISLATION AND BY-LAWS

6. The above alleged professional misconduct and/or professional incompetence are contrary to section 25 and subsections 26(1) and (2) of *The Registered Nurses Act, 1988*:

25 For the purposes of this Act, professional incompetence is a question of fact, but the display by a nurse in the professional care of a client of a lack of knowledge, skill or judgment or a disregard for the welfare of a client of a nature or to an extent that demonstrates that the nurse is unfit:

- (a) to continue in the practice of registered nursing; or
- (b) to provide one or more services ordinarily provided as part of the practice of registered nursing;

is professional incompetence within the meaning of this Act.

26(1) For the purpose of this Act, professional misconduct is a question of fact but any matter, conduct or thing, whether or not disgraceful or dishonourable, that is contrary to the best interests of the public or nurses or tends to harm the standing of the profession of nursing is professional misconduct within the meaning of this Act.

(2) Without restricting the generality of subsection (1), the discipline committee may find a nurse guilty of professional misconduct if the nurse has:

- (j) failed to inform an employer of the nurse's inability to accept specific responsibility in areas where special training is required or where the nurse does not feel competent to function without supervision;
- (l) failed to comply with the code of ethics of the association;

7. The above alleged professional misconduct and/or incompetence is contrary to the *Code of Ethics for Registered Nurses, 2008*. The following nursing values and ethical responsibilities are applicable in this case:

- (a) A. Providing Safe, Compassionate, Competent and Ethical Care: 1, 4, and 5;
- (b) B. Promoting Health and Well-Being: 3; and

- (c) G. Being Accountable: 1, 3, 4 and 5.
8. The above alleged professional misconduct and/or incompetence is contrary to the *Code of Ethics for Registered Nurses, 2017*. The following nursing values and ethical responsibilities are applicable in this case:
- (a) A. Providing Safe, Compassionate, Competent and Ethical Care: 1, 4, 5, 6 and 12;
 - (b) B. Promoting Health and Well-Being: 4;
 - (c) D. Honoring Dignity: 6 and 14; and
 - (d) G. Being Accountable: 1, 3, 4 and 5.
9. The above alleged professional misconduct and/or incompetence is contrary to the *Standards and Foundation Competencies for the Practice of Registered Nurses, 2013*. The following competencies are applicable in this case:
- (a) Standard I – Professional Responsibility and Accountability: 1, 3, 6, 10, 15, 16, 18, 19, 21, 23 and 24;
 - (b) Standard II – Knowledge-Based Practice: 26, 28, 29, 33, 36, 38, 39, 40, 41, 45, 49, 52, 58 and 60;
 - (c) Standard III – Ethical Practice: 62;
 - (d) Standard IV – Service to the Public: 72, 76(e), (f) and (g); and
 - (e) Standard V – Self-Regulation: 85.

D. PARTICULARS

10. Particulars of the alleged professional incompetence and/or misconduct while employed at the City Hospital in Saskatoon are as follows:
- (a) (Charge #1) From November 1, 2016 to August 1, 2019, you experienced three failed gradual return to work programs. During each of your return to work programs, staff reported significant nursing deficiencies. You were noted to rely heavily on the support of others, avoid unfamiliar nursing situations and had to ask many questions. While on the gradual return to work programs, you remained supernumerary and thus given all opportunities to observe and learn before gradually taking on registered nursing responsibilities. You were observed to regularly function at a level of a continuing care aid. You consistently practiced below the level of a graduate registered nurse.
 - (b) (Charge #1) From November 1, 2016 to August 1, 2019, there was numerous documentation about specific acts and observations of registered nursing incompetence. You regularly demonstrated lack of knowledge, skill or judgement as a registered nurse while being under direct supervision of another registered nurse. Extensive policy and procedure reviews were conducted along with return demonstration opportunities. Two clinical nurse educators and registered nursing staff were required to regularly intervene in your practice to ensure patient safety, all of which has been documented.

- (c) (Charge #1) From November 1, 2016 to August 1, 2019, you admitted to regularly not taking the Medication Administration Record ("MAR") into patient rooms. You admitted to regularly only checking a patient's armband and on occasion, verbally confirming the patient's identity. You admitted to not routinely seeking out an independent double check for narcotic administration. You admitted to not accessing the policy and procedure manuals when faced with questions surrounding medication administration, use of IV pumps or nursing procedures.
- (d) (Charge #1) On March 20, 2017, you were asked by two clinical nurse educators and management to complete a Surgical Services Self-Assessment Tool. You completed this tool and identified several areas of required improvement. You were provided with all updated unit policies and supplemental teaching. You indicated in the majority of the categories that you had either knowledge, competence and/or independence with basic registered nursing skills. You did not accurately reflect your lack of competence when completing this tool.
- (e) (Charge #1) In April 2017, you completed a Surgical Services Learning Plan with your clinical nurse educators, based on the areas you indicated required review in your Self-Assessment Tool. You did not successfully meet multiple skills after remediation review and being given the policies. The clinical nurse educators noted repeated areas of ongoing competency concern in their written evaluations of your performance.
- (f) (Charge #1) From April 1, 2017 to July 30, 2017, you demonstrated ongoing issues with basic registered nursing skills such as hand hygiene, sterile technique, oxygen application and the use of suction. You displayed difficulties with skills such as nasal gastric tubes, catheterization, PICC Lines, VAC dressings, and clean and sterile dressing changes.
- (g) (Charge #1) On July 20, 2017, you were given a letter of expectation from your employer. You did not complete your learning plan from April 2017. During subsequent conversations with your employer, you admitted to not remaining current with your policies and procedures and you had not read all of the policies provided by your employer.
- (h) (Charge #1) On August 1, 2017, you participated in an Independent Competency Assessment Observation (ICAO) shift. This assessment was conducted by a third party registered nurse not familiar with you or Surgery Units 3100-3200 and 3200. You continued to struggle during the assessment. Multiple areas of concern were documented. Subsequently, you received a letter of clarification reiterating the employer's concerns regarding your registered nursing competence.
- (i) (Charge #1) On August 31, 2017, concerns were brought forward about your inability to administer blood products. You administered packed red blood cells with Lactated Ringers and not Normal Saline as per the employer's policy. You made multiple errors during the administration of the blood product and did not consult the policy and procedure manual. Patient safety was compromised. Shortly after this incident, you went on medical leave.
- (j) (Charge #1) In the spring of 2018, you returned to work for a second gradual return to work. You remained on supernumerary status thus providing you with

direct supervision and a learning opportunity and your learning plan was reactivated. The employer documented significant gaps in meeting the expectations of a competent registered nurse. In June of 2018, you were provided another letter of expectation. In the summer of 2018, you left on another medical leave.

- (k) (Charge #1) In May of 2019, you attempted a third gradual return to work. You remained supernumerary and thus benefitted from direct supervision of another RN and learning opportunities. You continued to exhibit a lack of registered nursing competence. On May 23, 2019, two clinical nursing educators conducted an Objective Structured Clinical Examination (OSCE) to assess your registered nursing performance. They documented significant areas of concern regarding lack of knowledge, skill or judgment and an inability to perform basic registered nursing functions and to properly administer medications. Remediation was provided and yet you continued to not meet the required competencies.
- (l) (Charge #1) On July 3 and July 5, 2019, a second and third Independent Competency Assessment Observation (ICAO) were conducted of your practice. A different assessor performed the ICAO on those two days. Again, significant registered nursing practice competency concerns were brought forward and documented. As a result, you were placed on paid leave.
- (m) (Charge #1) On July 29 and 30, 2019, after you applied to be transferred from the surgical unit to long-term care, you participated in two shadow shifts at [REDACTED], a long-term care facility in Saskatoon. You continued your gradual return to work program at [REDACTED]. You began your orientation shifts at [REDACTED] on August 7, 2019. You are currently on sick leave.
- (n) (Charge #2) You admitted to having some difficulty since your return to work in 2016. You indicated that you believed this struggle is in large part due to your ongoing medication requirements for back pain leading to an inability to sleep well, fatigue and exhaustion. You admitted that these medications impaired your cognitive ability. Documentation provided by your physician supported that the prescription medication could cause cognitive impairment. You failed to recognize that as a registered nurse, you have a duty to remove yourself from working as an RN and to advise your employer when you are unfit. You continued to present to work and perform patient care when you were unsafe to do so.

E. DATE, TIME AND PLACE OF HEARING

- 11. NOW THEREFORE take notice that the Discipline Committee will hear the charges and such evidences may be tendered with respect to them starting at **9:00 o'clock** in the forenoon **on the 20th of August, 2020** at a location to be determined by the Executive Director of the SRNA and from day to day thereafter until the charges have been heard.
- 12. TAKE NOTICE THAT at the said time and place, you have the right to be present with counsel and a support person and that the hearing is open to the public.
- 13. TAKE NOTICE THAT in default of you attending at the said time and place, the discipline committee may, on proof of service of this notice on you and/or your legal

counsel, proceed with the hearing of said charges, and the evidence with respect to them.

F. DISCIPLINARY POWERS

14. TAKE NOTICE THAT, if the Discipline Committee finds you guilty of professional misconduct and professional incompetence, the Committee may order one or more of the following pursuant to section 31 of *The Registered Nurses Act, 1988*:

31(1) Where the discipline committee finds a nurse guilty of professional incompetence or professional misconduct, it may:

- (a) order that the nurse be expelled from the association and that the nurse's name be struck from the register;
- (b) order that the nurse be suspended from the association for a specified period;
- (c) order that the nurse may continue to practice only under conditions specified in the order which may include, but are not restricted to, an order that the nurse:
 - (i) not do specified types of work;
 - (ii) successfully complete specified classes or courses of instruction;
 - (iii) obtain treatment, counselling or both;
- (d) reprimand the nurse; or
- (e) make any other order that to it seems just.

(2) In addition to any order made pursuant to subsection (1), the discipline committee may order:

- (a) that the nurse pay to the association within a fixed period:
 - (i) a fine in a specified amount;
 - (i) the costs of the inquiry and hearing into the nurse's conduct and related costs, including the expenses of the investigation committee and the discipline committee; or
 - (ii) both of the things mentioned in subclauses (i) and (ii); and

(b) where a nurse fails to make payment in accordance with an order pursuant to clause (a), that the nurse be suspended from the association.

(3) The discipline committee shall send a copy of an order made pursuant to subsection (1) or (2) to the nurse who is the subject of the report and to the person, if any, who made the report.

(4) Where a nurse is expelled or suspended from the association, the registrar shall strike the name of the nurse from the register or indicate the suspension on the register, as the case may be.

G. GUILTY PLEA

AND FURTHER TAKE NOTICE THAT if you decide to enter a guilty plea you and for your legal counsel must contact legal counsel for the Investigation Committee of the SRNA at the earliest opportunity in order to implement the procedure to speak to penalty.

DATED at Regina, Saskatchewan, this 1st day of June, 2020.

A rectangular box containing a handwritten signature in cursive script that reads "C. Smith".

Cindy Smith, RN, MN Executive Director,
Saskatchewan Registered Nurses Association