

IN THE MATTER OF *THE LICENSED PRACTICAL NURSES ACT, 2000* AND
BYLAWS AND IN THE MATTER OF A COMPLAINT AGAINST THERESA
BLONDEAU OF PARKSIDE, SASKATCHEWAN

DECISION OF:

**SASKATCHEWAN ASSOCIATION OF LICENSED PRACTICAL NURSES
DISCIPLINE COMMITTEE**

INTRODUCTION:

The hearing by the Discipline Committee into the complaints against Theresa Blondeau was convened in the Maple Room of the Park Town Hotel in Saskatoon, Saskatchewan, on May 11, 2010 being the location and the date agreed upon by the member and legal counsel for the Counselling and Investigation Committee following the delivery of a Notice of Hearing sent to the member.

Ms. Blondeau was present at the hearing. Also present at the hearing were Merrilee Rasmussen, Q.C., legal counsel for the Counselling and Investigation Committee of the Saskatchewan Association of Licensed Practical Nurses (referred to as the “Investigation Committee”), and Della Bartzén (investigator).

EVIDENCE:

At the outset of the hearing, an Agreed Statement of Facts and Documents was filed with the Discipline Committee. The documents referred to in the Agreed Statement of Facts were provided to the Discipline Committee but are not reproduced in this Decision. The Agreed Statement of Facts states:

Both the Counselling & Investigation Committee of the Saskatchewan Association of Licensed Practical Nurses and Theresa Blondeau hereby agree to the following facts and documents to be received in evidence by the Discipline Committee of the Saskatchewan Association of Licensed Practical Nurses in relation to the hearing of the formal complaint described above:

1. *Theresa Blondeau is a member of the Saskatchewan Association of Licensed Practical Nurses ("SALPN"), registration number 11395. She has been a member of the SALPN since June 9, 2007.*
2. *Membership in SALPN, and the conduct of members, is governed by The Licensed Practical Nurses Act, 2000 (the "Act"), the SALPN bylaws, and the Code of Ethics.*
3. *As a self-regulating profession, SALPN is authorized by the Act, to discipline its members for failure to adhere to the requirements of the Act, the bylaws, or the Code of Ethics.*
4. *Pursuant to s. 26 the Act, the Counselling and Investigation Committee (the "Investigation Committee") is required to investigate allegations of professional misconduct, and on completion of its investigation, to make a written report to the Discipline Committee recommending that either that the subject matter of the complaint be referred for a discipline hearing or that no further action be taken.*
5. *A complaint dated May 3, 2009 regarding the nursing practice of Ms Blondeau was received by SALPN on May 11, 2009 from [REDACTED] RN. A copy of the complaint is provided at Tab A.*
6. *In that complaint Ms [REDACTED] alleged that Ms Blondeau left the ward for a period of 45 minutes, during which time the patients for whom she was responsible were left unattended, although at least two other staff persons were assigned to float. The complaint further alleged that Ms Blondeau was suffering from mental health issues and had engaged in self-destructive behavior, including cutting herself and overdosing on prescription medications.*
7. *This complaint was referred to the Investigation Committee for review and investigation pursuant to s. 26(1) of the Act.*
8. *In the course of its investigation, the Investigation Committee became aware that Ms Blondeau had been suspended by her employer Mamawetan Churchill River Health Region, for taking Valium and Ativan for her personal use on or about July 9, 2009. In a letter dated July 13, 2009, the employer advised the SALPN Investigator that Ms Blondeau had been suspended following an incident July 9, 2009, and that Ms Blondeau admitted to having taken Valium and Ativan from the La Ronge Health Centre. A copy of this letter is attached at Tab B.*
9. *A second letter, dated July 29, 2009, confirmed that Ms Blondeau had been suspended for 15 days for taking, while on duty, drugs for her own consumption. A copy of the letter is attached at Tab C.*
10. *The Investigation Committee also interviewed Ms Blondeau as part of its investigation. During that interview she admitted to suffering from a bi-polar disorder, a history of hypoglycemia, overdosing on prescription medications, self-mutilation, and the specific acts set forth in the formal complaint. A copy of the transcript of the interview is provided at Tab D.*

11. A letter received from [REDACTED], Shellbrook Medical Clinic, states that Ms Blondeau has been diagnosed to have depressed mood, anxiety, frequent suicidal / parasuicidal attempts and episodes of self-mutilation. A copy of his letter is attached at Tab E.
12. After completing its review and investigation of the complaint, it was the unanimous recommendation of the Investigation Committee that the Discipline Committee should hear and determine the formal complaint against Ms Blondeau. The Investigation Committee's written report containing the formal complaint against Ms Blondeau was submitted to the Discipline Committee on January 6, 2010. A copy of the written report and formal complaint is attached at Tab F.
13. Ms Blondeau has not been working or practicing as an LPN since early March 2010, while she seeks counseling and treatment, and does not intend to resume practice until she is medically fit to do so.
14. Ms Blondeau accepts responsibility for the following actions:
 - a. Prior to May 2009, she did report for duty while physically unfit, after having been suffering from insomnia for a period of at least two days;
 - b. On or about July 9, 2009 she took for her own use and without permission, the prescription medications Valium and Ativan from her employer, La Ronge Health Centre;
 - c. She has while a member, engaged in self-destructive behavior that has compromised her ability to provide competent nursing care, specifically:
 - i. In December 2008 she overdosed on self-administered medications, although she was not on duty at this time;
 - ii. On or about April 16, 2009, and at times previously, she has engaged in self-mutilation, although she was not on duty when these incidents have occurred;
 - iii. On or about April 17, 2009, while she was a patient in Shellbrook Hospital, she attempted to overdose on prescription medicine;
 - d. On or about April 16, 2009 and while on duty, she was absent from her station for a period of at least 45 minutes without having informed the other staff member, resulting in patients for whom she was responsible being left unattended.
15. Accordingly, Ms Blondeau agrees to the following disciplinary actions:
 - a. She will undertake not to resume practice as an LPN until such time as it has been determined by a qualified mental health professional that she is competent and medically fit to do so;

- b. *Once she is able to return to practice in accordance with clause (a), she will attend regular psychological counselling from a qualified professional no less than twice per month, for a period of at least one year and will follow the treatment recommendations of her psychological counselor; and*
- c. *She will arrange for her psychological counselor to provide confirmation to SALPN on a monthly basis for a period of one year that she is attending counselling and following treatment recommendations; and*
- d. *Failure to comply with clause (a), (b) or (c) will result in suspension of her license to practice as an LPN until such time as the Investigation Committee is satisfied that she is medically fit to return to practice or until the Discipline Committee has dealt with the matter at a hearing.*

During the presentation of the Agreed Statement of Facts and Documents, legal counsel for the Investigation Committee added that the reason Ms. Blondeau was absent from the ward for approximately 45 minutes on April 16, 2009, was to consult with the Nurse Practitioner about her personal issues. Apparently, the Nurse Practitioner's office is located around the corner from the rooms of Ms. Blondeau's patients.

In answer to questions posed by the Discipline Committee, Ms. Blondeau advised that the theft of medications from the La Ronge Health Centre was a one-time occurrence and that no criminal charge had been laid. Following the two-week suspension imposed on her by her employer for that theft, Ms. Blondeau returned to work there and continued to work until March 2010.

Also, in response to questions of the Discipline Committee, Ms. Blondeau clarified the medical care she was receiving at the time of the hearing. She is under the regular care of her family doctor (whom she has seen for over 10 years) and a psychiatrist in La Ronge whom she sees once every one to two months (as per his request and because he has infrequent office hours in La Ronge). Ms. Blondeau also sees on a regular and on-going basis, a counsellor who is a psychiatric nurse.

SUBMISSIONS OF PARTIES:

Counsel for the Investigation Committee submitted that the Discipline Committee should accept the facts as set out in the Agreed Statement of Facts and Documents, as well as the agreed-to penalties for the conduct which the member has agreed did occur. While the Notice of Hearing charged that this conduct amounts to professional incompetence and/or professional misconduct within the meaning of ss. 23 and 24 of the *Act*, at the hearing, legal counsel suggested that the conduct admitted to was primarily in the nature of "professional misconduct" under s. 24, whether because it is a breach of the bylaws (in particular, the *Code of Ethics*) or because it tends to harm the standing of the profession and is not in the best interests of the public.

In terms of the proposed penalties, the Investigation Committee took the position that a "psychological counsellor" should be an appropriately trained professional such as a registered psychologist, rather than merely a "counsellor". Ms. Blondeau is currently looking for a registered psychologist to be part of her care, but has concerns over the cost of counselling services through a registered psychologist. She

thought she might be able to access her workplace employee assistance plan to help offset some of those costs.

While wanting to be reasonable and flexible, the Investigation Committee sees the proposed penalties as a balance between the member's financial concerns and the need to ensure safe nursing practice. In light of these concerns, and those of Ms. Blondeau's, the Investigation Committee suggested that it may be appropriate to leave the number of treatments per month up to Ms. Blondeau's health care providers.

In response to questions of the Discipline Committee, legal counsel for the Investigation Committee clarified the penalty in paragraph 15(d) that "what" is to come back to the Discipline Committee is any breach of the penalties in 15(a), (b) and (c) that the Investigation Committee is unable to resolve directly with Ms. Blondeau. The member's license will be suspended during the time that the Investigation Committee is attempting to resolve the issue and/or during the time the matter is referred to the Discipline Committee and a decision is rendered.

Counsel submitted that the case law supports the proposition that a discipline committee of a self-governing professional association should carefully consider any joint submission on penalty and only decline to accept it if there are very clear and compelling reasons for doing so.

There were no additional submissions made by the member at the hearing.

DECISION:

The issue before the Discipline Committee is whether the conduct of Ms. Blondeau, summarized in paragraph 14 of the Agreed Statement of Facts and Documents is "professional incompetence" within the meaning of s. 23 of the *Act* and/or "professional misconduct" within the meaning of the *Act*. We agree with the submission of legal counsel for the Investigation Committee that Ms. Blondeau's conduct is more in the nature of professional misconduct than professional incompetence. Professional incompetence is defined in s. 23 of the *Act* in terms of a "lack of knowledge, skill or judgment" of the type that shows the member is not fit to either continue practicing or providing one or more of the usual services of an LPN. Professional misconduct covers a broader range of conduct by a member, whether it occurs in the workplace or not. Whether an LPN is guilty of professional incompetence and/or misconduct is a question of fact and certain conduct may give rise to a finding of one or the other, or both. In the case before us, the Discipline Committee is of the view that the primary issue before us is whether Ms. Blondeau's conduct is "professional misconduct" within the meaning of s. 24 of the *Act*. Section 24 states:

24. *Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is a professional misconduct within the meaning of this Act if:*
- (a) it is harmful to the best interests of the public or the members;*
 - (b) it tends to harm the standing of the profession;*
 - (c) it is a breach of this Act or the bylaws; or*

- (d) *it is a failure to comply with an order of the counselling and investigation committee, the discipline committee or the council.*

The Discipline Committee finds, on the basis of the evidence presented to it in the Agreed Statement of Facts and Documents set out above, additional information provided at the hearing on May 11, 2010, the submissions of legal counsel for the Investigation Committee, and the member's acknowledgment of professional misconduct, that Theresa Blondeau did commit acts of professional misconduct within the meaning of section 24 of *The Licensed Practical Nurses Act*.

We find that Ms. Blondeau's reporting for duty when she was physically unfit due to a period of insomnia, as well as her having engaged in self-destructive behaviour, such as overdosing (on both self-administered and prescription medications) and engaging in self-mutilation, has compromised her ability to provide safe and competent nursing care and is harmful to the best interests of the public. This is so even though she was not on duty at the time of the overdoses and self-mutilation. In addition, her having left her patients unattended for about 45 minutes without having informed another staff member also is not in the best interests of the public or other members. Further, Ms. Blondeau's having taken Valium and Ativan from her employer for her own use and without permission, is clearly misconduct, it being conduct that is not in the best interests of the public and harms the standing of the profession. Although Ms. Blondeau's employer administered a disciplinary suspension for this conduct, it is still within the power of the Discipline Committee to find it is professional misconduct within the meaning of the *Act*. The Discipline Committee notes that all these incidents occurred between approximately December 2008 and July 2009. They clearly point to a pattern of inappropriate and destructive behaviour which appear to be the result of the member's medical conditions. While that factor does not affect our finding of professional misconduct, such a factor can have an impact on the appropriate penalties for the misconduct.

As indicated above, section 24(c) of the *Act* states that a breach of the *Act* or the bylaws constitutes "professional misconduct". Included in the Regulatory Bylaws for *The Saskatchewan Association of Licensed Practical Nurses Act, 2000* is a *Code of Ethics*, which LPN's must follow. In addition to our finding of professional misconduct under s. 24(a) and (b) of the *Act*, the Discipline Committee also finds that Ms. Blondeau's conduct amounts to a breach of statements 1, 5, 6, 8 and 9 of the *Code of Ethics* (as contained in the Regulatory Bylaws), which statements read as follows:

CODE OF ETHICS

As a member of the Saskatchewan Association of Licensed Practical Nurses:

1. *I will fulfil my obligations to society in a professional, competent manner.*

5. *I will respect, promote and protect the physical, mental, emotional and spiritual health of the patients and their families and friends.*

6. *I will work cooperatively and collaboratively with my colleagues, other health care professionals and others associated with the health care system.*

8. *I will recognize my professional limitations and draw upon the expertise of other disciplines in the provision of high quality nursing care.*

9. *I will, as a Licensed Practical Nurse, continually strive to uphold and maintain high standards.*

PENALTY:

After a careful review of the proposed penalties outlined in paragraph 15 of the Agreed Statement of Facts and Documents and the submissions of legal counsel and the member at the hearing, the Discipline Committee finds that for the most part, the proposed penalties are appropriate for what we have determined to be professional misconduct by the member. The Discipline Committee finds it especially important that Ms. Blondeau not resume practicing as an LPN until she is medically fit to do so. As previously mentioned, it is clear that most if not all of her misconduct was caused by or related to a mental health condition and her means of dealing with it on her own and without proper medical care. The other aspects of the Discipline Committee's order are directed toward ensuring Ms. Blondeau's safe nursing practicing through her agreement to continue to receive certain medical treatment for a period of time following her return to work.

One area where the Discipline Committee has chosen to deviate from the proposed, agreed-to penalty, concerns the number of times per month Ms. Blondeau must receive psychological counselling after her return to work. The proposed penalty set this requirement at two times per month. In our view, as discussed with legal counsel and the member at the hearing, it would seem more appropriate that the decision of frequency be made by Ms. Blondeau's caregivers. Also, in terms of what type of "psychological counsellor" Ms. Blondeau should see, the Discipline Committee has determined that a registered psychologist and/or psychiatrist are appropriate. While Ms. Blondeau stated that she frequently attends counselling with a psychiatric nurse and finds this helpful, and we do not wish to discourage her from continuing to do so, we agree with the Investigation Committee that something more than a "counsellor" is necessary. Because we appreciate that Ms. Blondeau lives in a more remote location with somewhat less access to such professionals (although she is able to see her psychiatrist once every one to two months), as well as limited financial resources, we have included a psychiatrist in addition to a registered psychologist as the types of professionals from whom she could receive continuing medical care.

Therefore, in accordance with s. 30 of the *Act*, the Discipline Committee makes the following orders:

1. That Ms. Blondeau not resume practice as a Licensed Practical Nurse until such time as it has been determined by a qualified mental health professional that she is competent and medically fit to do so.

2. That, upon Ms. Blondeau's return to practice in accordance with paragraph 1 of this order, she may be permitted to continue to practice as an LPN only on the following conditions:
 - a. that for a period of one year following her return to work, she will follow the treatment recommendations of her psychiatrist or a registered psychologist, including regular psychological counselling, the type and frequency of which is to be determined by her psychiatrist and/or a registered psychologist; and
 - b. that for a period of one year following her return to work, Ms. Blondeau will arrange for her psychiatrist or a registered psychologist to provide confirmation to the Counselling and Investigation Committee, on a monthly basis, that she is attending the required counselling and is following all treatment recommendations.
3. Should Ms. Blondeau fail to comply with any of the conditions set out in paragraphs 1 and 2 of this order, Ms. Blondeau's license shall be suspended until the Counselling and Investigation Committee is satisfied of Ms. Blondeau's medical fitness to practice or until the Discipline Committee has heard and determined the matter.

In closing, the Discipline Committee thanks both parties for their cooperation at the hearing and in their achieving an Agreed Statement of Facts and Documents. The Discipline Committee recognizes the member's insight into the difficulties that gave rise to her misconduct and her determination to receive proper medical care in order to return to the safe practice of nursing.

DATED at Regina, Saskatchewan, this ____ day of October, 2010.

**SASKATCHEWAN ASSOCIATION OF
LICENSED PRACTICAL NURSES,
DISCIPLINE COMMITTEE**

Angela Zborosky, Chairperson

Marjorie Molsbery, LPN, Member
Andrea Reynolds, LPN, Member
Tony Linner, Public Representative, Member