

IN THE MATTER OF *THE LICENSED PRACTICAL NURSES ACT, 2000* AND BYLAWS
AND IN THE MATTER OF A COMPLAINT AGAINST REBECCA PEREHUDOFF OF
MARTENSVILLE, SASKATCHEWAN

DECISION OF:

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

INTRODUCTION:

The hearing by the Discipline Committee into the complaints against Rebecca Perehudoff was convened in the Maple Room of the Park Town Hotel in Saskatoon, Saskatchewan, on May 12, 2010 being the location and date set out in the Notice of Hearing sent to Ms. Perehudoff.

Ms. Perehudoff 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) and Della Bartzen (investigator).

EVIDENCE:

At the outset of the hearing, the following Agreed Statement of Facts and Joint Submission were filed with the Discipline Committee [the information referenced in the “Tabs” is not included, but a footnote is added]:

Both the Counselling & Investigation Committee of the Saskatchewan Association of Licensed Practical Nurses and Rebecca Perehudoff 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. Rebecca Perehudoff is a member of the Saskatchewan Association of Licensed Practical Nurses (“SALPN”), registration number 11395. She has been a member of the SALPN since early 2006.*
- 2. 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.*

3. 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.
4. A complaint regarding the nursing practice of Ms Pehudoff was received by SALPN on January 11, 2009. Although the complaint is dated January 6, 2008, that appears to be an error and the letter of complaint was actually written on January 6, 2009. A copy of the complaint is provided at Tab A.
5. In the complaint, ██████████ Director of Care, Oliver Lodge, Saskatoon, Saskatchewan, alleged that on or about December 16, 2008 Ms Pehudoff left the ward where she was assigned to work without first informing the R.N. in charge, ██████████ Ms Pehudoff started her shift at 07:00 that day but was ill and at 08:15 advised the ward clerk, Chelsey Kohnke, whose duties included scheduling of staff, that she was not feeling well and would have to go home early. At about 09:45 Ms Pehudoff contacted the ward clerk again to see if she had found a replacement. The ward clerk agreed that she should go home as she was not looking well and Ms Pehudoff left at that time, although a replacement had not yet been found.
6. The complaint further alleged that Ms Pehudoff had failed to dispense patient medications scheduled for 08:00 on December 18, 2008.¹ A list of the medications that Ms Pehudoff had failed to dispense prior to leaving the ward is provided at Tab B. Ms Pehudoff told the ward clerk that she had prepared the morning medications for administration to patients but hadn't completed administering them before she had to leave. She had about 33 patients assigned to her and there were 7 or 8 whose medications remained to be administered when she left. She felt that it was self-explanatory what remained to be done and the ward clerk told her she would get one of the other nursing staff to administer these 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 determined that Ms Pehudoff had left the ward without properly informing the charge nurse, although she had informed the ward clerk.
9. The Investigation Committee further determined that Ms Pehudoff had failed to dispense medications scheduled for 08:00 hours on December 16, 2008, however she was very ill when she left the workplace. She saw the doctor the next day and was prescribed antibiotics for a

¹ This appears to be a typographical error and should read "December 16, 2008." This is confirmed by documents provided with this Agreed Statement of Facts and Joint Submission.

serious infection. The Investigation Committee agrees that it would have been inappropriate for Ms Perehudoff to stay at work when she was ill, as her illness may have affected her ability to properly and competently perform her duties as an LPN, especially in relation to the administration of medications.

- 10. When Ms Perehudoff returned to work on December 21 or 22, 2008 she was told that she had been suspended by her employer. She has not worked as an LPN since that time and has not renewed her licence for the current year.*
- 11. During the course of the investigation, Ms Perehudoff on three separate occasions, September 2, 2009, December 1, 2009, and December 7, 2009, was verbally abusive to the SALPN Investigator when discussing the pending discipline, and on more than one occasion she hung up the phone on the investigator. She said she was very frustrated by the situation and she has since apologized to the Investigator.*
- 12. The Investigation Committee's written report containing the formal complaint against Ms Perehudoff was submitted to the Discipline Committee on February 16, 2010. A copy of the written report and formal complaint is attached at Tab C.*
- 13. The Notice of Hearing dated April 22, 2010, including the formal complaint, was served on Ms Perehudoff by registered mail, a copy of which she received more than 14 days in advance of the hearing, naming May 12, 2010 at 10:00 at the Park Town Hotel in Saskatoon, Saskatchewan, as the date, time and place at which the hearing of this matter would be held. A copy of the Notice and formal complaint is provided at Tab D.*
- 14. The Counselling and Investigation Committee formally withdraws the charge contained in the formal complaint as 1(a) for the reason that Ms Perehudoff was ill and in no condition to be administering medications.*
- 15. Ms Perehudoff now accepts responsibility for the following actions:*
 - a. On or about December 16, 2008, she did leave the ward to which she was assigned and failed to administer certain medications to patients assigned to her care without properly informing the charge nurse, contrary to the SALPN Code of Ethics and section 14 of SALPN's Regulatory Bylaws, and/or contrary to s. 24 of The Licensed Practical Nurses Act, 2000, which defines "professional misconduct" as including conduct that is harmful to the interests of the public or the profession or is a breach of the bylaws; and*
 - b. On or about September 2, December 1 and December 7, 2009, she was verbally abusive to the SALPN Investigator during telephone discussions of the pending discipline case and more than once hung up on her, contrary to the SALPN Code of Ethics and section 14 of SALPN's Regulatory Bylaws and contrary to s. 24 of The Licensed Practical Nurses Act,*

2000, which defines “professional misconduct” as including conduct that is harmful to the interests of the public or the profession or is a breach of the bylaws.

16. Accordingly, Ms Pehudoff agrees to the following disciplinary actions:

- a. *She will successfully complete the course entitled “Roles, Responsibilities and Ethics for LPNs” from the Saskatchewan Institute of Applied Science and Technology (SIASST), by December 31, 2010 and, if she fails to do so, to be suspended from practice after that date and until she completes the course;*
- b. *She agrees that for a period of one year after she renews her licence to practice as an LPN she may be subject to random nursing audits as requested by the Counseling and Investigation Committee, and to notify her employer(s) during that period of time of that possibility; and*
- c. *She agrees to accept a reprimand for failing to treat the staff of the Investigating Committee in a professional manner.*

During the presentation of the Agreed Statement of Facts, legal counsel for the Investigation Committee clarified that the list of medications Ms. Pehudoff failed to administer, as set out in Tab B and referenced in paragraph 6 of the Agreed Statement of Facts, although lengthy in number, related to only seven or eight patients, each patient requiring multiple medications.

During the course of the submissions, legal counsel for the Investigation Committee stated, and Ms. Pehudoff agreed, that Ms. Pehudoff would be responsible for the cost of the course entitled “Roles, Responsibilities and Ethics for LPNs” as referred to in paragraph 16(a) of the Agreed Statement of Facts. At the hearing, the Discipline Committee asked for more information about the course, including the length and cost of the course, the subject matter of the course, and the dates the course is available to be taken. The Investigation Committee undertook to provide that information following the hearing, through an email message addressed to both the Discipline Committee and the member.

The requested information was received on May 17, 2010 and included information provided by staff of SIASST as well as a printed course description and course outline. The course is titled “EMPL 1000 Roles, Responsibilities and Ethics” and includes learning objectives for “NRSB 214” and “NRSB 213.” It covers matters such as the role and function of SALPN, SALPN’s Code of Ethics, issues of diversity, client advocacy, client’s rights, ethics, moral and values, legal issues, collaboration in nursing and the multi-disciplinary health team approach to nursing, group dynamics, collegiality, conflict resolution, giving and receiving feedback, and leadership. The LPN is evaluated through assignments, a quiz and a final exam. The course is offered by SIASST through the Continuing Education, Nursing Division and may be completed by way of distance education. Participants are permitted 12 weeks to complete the course and the cost is \$450.00. While the program is available on an on-going basis, registration after April 1st in a given year is not generally permitted because the course needs to be completed before the end of June, given that the program runs continuously between September and June. Therefore,

registrations would not now be accepted until after September 1, 2010.

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 Joint Submission, as well as the appropriate, agreed-upon penalties for the conduct admitted by the member to be professional misconduct.

Counsel confirmed the statement in paragraph 14 of the Agreed Statement of Facts and Joint Submission that the Investigation Committee has withdrawn the charge contained in paragraph 1(a) of the formal complaint. That charge alleged professional incompetence/misconduct on the part of Ms. Pehudoff for failing to administer medications to patients under her care. Legal counsel advised that the Investigation Committee concluded that Ms. Pehudoff was indeed ill on December 16, 2008 and should not have been at work handing out medications. While determining that Ms. Pehudoff had not distributed the medications of some of her patients that day, her illness placed her in no position to administer medications and therefore, the Investigation Committee took the view that Ms. Pehudoff's failure to administer these medications did not amount to professional *incompetence* within the meaning of the *Act*. Legal counsel submitted that Ms. Pehudoff's error on December 16, 2008 was her failure to inform the charge nurse before leaving the ward and having not administered all medications, conduct which is more appropriately characterized as professional *misconduct* and not professional incompetence. Counsel submitted that Ms. Pehudoff has accepted responsibility for that failure as well as her verbal abuse to the Investigation Committee's investigator, conduct for which Ms. Pehudoff has apologized. Legal counsel urged the Discipline Committee to accept that these two incidents amount to professional misconduct both because the conduct is in violation of the Code of Ethics (which is a breach of the by-laws and, by definition, is "professional misconduct") and/or because the conduct tends to harm the standing of the profession and is not in the best interests of the public.

Counsel submitted that 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.

No additional submissions were made by the member at the hearing.

DECISION:

The issue before the Discipline Committee is whether the conduct of Ms. Pehudoff, summarized in paragraph 15 of the Agreed Statement of Facts and Joint Submission, is "professional misconduct" within the meaning of s. 24 of the *Act*. Section 24 of the *Act* reads as follows:

24. *Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is 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.*

2000, c.L-14.2,s.24.

The Discipline Committee finds, on the basis of the evidence presented to it in the Agreed Statement of Facts and Joint Submission set out above, the submissions of legal counsel at the hearing held on May 12, 2010, and the member's acknowledgement of professional misconduct, that Rebecca Pehudoff did commit acts of professional misconduct within the meaning of section 24 of *The Licensed Practical Nurses Act, 2000*.

We find that Ms. Pehudoff's having left her assigned ward and her failure to administer medications to certain patients to whom she was assigned without properly informing the charge nurse, amounts to professional misconduct within the meaning of section 24(a) of the *Act*, that is, it is conduct that is harmful to the best interests of the public or the members. In addition, the Discipline Committee finds that Ms. Pehudoff's verbally abusive conduct toward the Investigation Committee's staff member (who was assigned to investigate the complaint) on September 1, December 1 and December 7, 2009 amounts to professional misconduct within the meaning of both s. 24 (a) and (b), in that it is harmful to the best interests of the public and the members, and that it tends to harm the standing of the profession.

As indicated above, section 24(c) of the *Act* states that a breach of the *Act* or the bylaws also constitutes "professional misconduct." Included in the Regulatory Bylaws for *The Saskatchewan Association of Licensed Practical Nurses Act, 2000* is a *Code of Ethics* to which LPN's must adhere. In addition to our finding of professional misconduct under s. 24(a) and (b) of the *Act*, the Discipline Committee also finds that the member's conduct amounts to a breach of the first, sixth and ninth statements in 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 fulfill my obligations to society in a professional, competent manner.

...

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

...

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

After a careful review of the proposed penalties outlined in the Agreed Statement of Facts and Joint Submission, the submissions of legal counsel at the hearing, and the information provided after the hearing concerning the “Roles, Responsibilities and Ethics” course, the Discipline Committee finds that the proposed penalties (with some slight modifications) are appropriate for what we have determined to be professional misconduct by the member.

Therefore, in accordance with s. 29 of *The Licensed Practical Nurses Act, 2000*, the Discipline Committee makes the following orders:

1. That Rebecca Perehudoff be formally reprimanded for professional misconduct for her failure to treat a staff member of the Counselling and Investigation Committee in a professional manner;
2. That during the one-year period commencing on the date Rebecca Perehudoff renews her licence to practice as an LPN, Ms. Perehudoff may be subject to random nursing audits at the instigation of the Counselling and Investigation Committee, which the Committee may choose to do through a member of the Committee, a practice consultant, and/or through receipt of a performance evaluation completed by the member’s employer(s). During this time period, Ms. Perehudoff must notify her employer(s) of the possibility that such random nursing audits might be requested and/or conducted by the Counselling and Investigation Committee; and
3. That prior to February 28, 2011, Rebecca Perehudoff provide confirmation acceptable to the Counselling and Investigation Committee, that she has completed, at her own cost, the course “Roles, Responsibilities and Ethics,” failing which Ms. Perehudoff will be suspended from the Association on and after February 28, 2011 until the date on which such confirmation is provided.

We wish to make some additional comments concerning slight modifications made to the proposed penalties in Orders (2) and (3) above.

In relation to Order (2), we added the three possible methods by which nursing audits could be performed. These methods were specifically suggested by legal counsel for the Investigation Committee at the hearing.

The Discipline Committee has also made a slight change to the agreed-upon penalty set out in Order (3). Based on the information concerning the availability of the course “Roles, Responsibilities and Ethics” that the Discipline Committee received following the hearing on May 12, 2010, the Discipline Committee has decided that the agreed-upon deadline of December 31, 2010 for Ms. Perehudoff’s completion of that course should be extended to February 28, 2011. Compelling reasons exist for modifying this aspect of the parties’ Joint Submission. At the time this matter was heard (May 12, 2010), this course was not in fact available to be taken by Ms. Perehudoff. The earliest date upon which Ms. Perehudoff may register for and begin her studies is September 1, 2010, because SIAST does not allow registrations between April 1st and September 1st of each year. The parties did not seem to be aware of this restriction at the time they developed the Joint Submission and presented it at the hearing. In the interests of fairness, the Discipline Committee finds it appropriate to provide the member with some additional time to complete the course. Although the Discipline Committee is not aware of the usual time for completion of the course, we have

taken into account SIAST's condition that the course must be completed within 12 weeks in deciding on the appropriate deadline for completion of the course. This factor, along with the fact that the member will need to wait until September 1, 2010 to register for the course (approximately 3 ½ months following the hearing date), provides a reasonable basis for extending the deadline for completion of this course to February 28, 2011.

DATED at Regina, Saskatchewan, this 25th day of August, 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