

IN THE MATTER OF A DISCIPLINE HEARING BY A DISCIPLINE COMMITTEE, ESTABLISHED PURSUANT TO *THE LICENSED PRACTICAL NURSES ACT, 2000* AND BYLAWS TO INQUIRE INTO THE CONDUCT OF LICENSED PRACTICAL NURSE JENNIFER SANDERS

**REASONS FOR DECISION BY:**

**SASKATCHEWAN ASSOCIATION OF LICENSED PRACTICAL NURSES**

**DISCIPLINE COMMITTEE**

**INTRODUCTION:**

On July 7, 2017, the Discipline Committee of the Saskatchewan Association of Licensed Practical Nurses ("SALPN") held a hearing concerning allegations of professional misconduct against Licensed Practical Nurses Stefanie Ward and Jennifer Sanders. The allegation of professional misconduct against Ms. Ward and Ms. Sanders flows from the same event and as such the Investigation Committee legal counsel proposed that the matters be heard together. The Discipline Committee agreed but has rendered separate reasons for each respective member.

At the hearing Darcia Schirr Q.C. appeared as legal counsel for the Counselling and Investigation Committee (the "Investigation Committee") of SALPN. Ms. Sanders was present for the hearing.

Legal counsel for the Investigation Committee filed an Affidavit of Service of a process server who affirmed that Ms. Sanders was personally served on June 20, 2017 with a copy of the Notice of Discipline Hearing. Appendix A to the Notice of Hearing dated June 13, 2017 set out the particulars of the allegations against Ms. Sanders as follows:

1. On or about April 28, 2017, while you were working at the Pasqua Hospital in Regina, you invited an individual who was not a patient to a room at the Pasqua Hospital intended for confidential charting by health professionals. You started an IV on the individual, administering Normal Saline. You witnessed your nursing colleague Stefanie Ward administer Zofran by IV to the individual.

These procedures were performed:

- a) Without physician's orders;
- b) Outside the scope of practice of a licensed practical nurse;
- c) Without conducting any or any appropriate assessment of the individual's health condition;
- d) Without advising the individual of the risks of the IV treatment;
- e) Without the consent or knowledge of the Pasqua Hospital and/or the Regina Qu'Appelle Health Region for the use of hospital supplies and medication;
- f) Without admitting the individual as a patient;
- g) Without charting or in any way documenting the procedure;

- h) In an area intended for health professionals only given the presence of confidential personal health information contained in patient records.

At the hearing Ms. Sanders pleaded guilty to the allegations contained in the Notice of Hearing.

#### **EVIDENCE:**

At the outset of the hearing, the following Agreed Statement of Facts and Documents was filed with the Discipline Committee [the information referenced in the "Tabs" is not included]:

1. Jennifer Sanders, of the City of Regina, in the Province of Saskatchewan is a licensed practical nurse and a member of the Saskatchewan Association of Licensed Practical Nurses (SALPN). At the times material to these proceedings, Ms. Sanders was employed as a licensed practical nurse at Unit 4A of the Pasqua Hospital in Regina.
2. Ms. Sanders first registered with SALPN in July, 2010 as a graduate licensed practical nurse. She has been a practicing member since that date.
3. On May 10, 2017, Jennifer Sanders and Stephanie Ward attended at the SALPN office on an unannounced basis and without an appointment. They asked to meet with Lynsay Nair, Executive Director. Ms. Nair, Joel Gritzfeld, Regulatory Services Co-ordinator and Helen Bourget, Practice Consultant for SALPN met with Ms. Sanders and Ms. Ward.
4. Ms. Sanders and Ms. Ward advised that they were involved in a “workplace situation” and they wanted to advise SALPN of that. Ms. Sanders and Ms. Ward then went on to describe a series of events that occurred at the Pasqua Hospital on April 29, 2017.
5. Upon the conclusion of the meeting, Joel Gritzfeld and Helen Bourget completed a complaint form. Attached at **Tab “A”** is the complaint submission form which describes the disclosures made by Ms. Sanders and Ms. Ward. The complaint form contains an error as it shows the date of the incident as April 28, 2017. The accurate date is April 29, 2017.
6. On May 23, 2017, SALPN received an online complaint from Sherilyn Bray, who is the manager of Unit 4A at the Pasqua Hospital where Ms. Sanders and Ms. Ward are employed. Attached at **Tab “B”** is the online complaint form submitted by Ms. Bray.
7. Della Bartzen, investigator with the Counselling and Investigation Committee investigated matters and interviewed Ms. Sanders, Ms. Ward, Ms. Bray and others. Upon completion of the investigation, the Counselling and Investigation Committee recommended pursuant to section 26(2)(a) of the Act, that the Discipline Committee hear and determine the complaint. The investigation has resulted in the charges set out in Appendix “A” to a Notice of Discipline Hearing dated June 13, 2017.

8. Jennifer Sanders admits the allegations described in charge 1(a) through 1(h), inclusive and admits that the conduct described in those charges constitutes professional misconduct and a breach of the regulatory bylaws, code of ethics and standards of practice particularized in Appendix "A" to the Notice of Discipline Hearing.

### **Background to the Complaint**

9. [REDACTED] [REDACTED] is a social worker with the Regina Qu'Appelle Health Region. Jennifer Sanders and Stefanie Ward are professionally and personally familiar with [REDACTED] [REDACTED]

10. If called to testify, Jennifer Sanders would state the following:

- a) On April 29, 2017 she was working the day shift. That morning she received a text message from [REDACTED] [REDACTED] advising that Ms. [REDACTED] had left-over birthday cake from her daughter's birthday party. Ms. [REDACTED] further advised that she would drop off some birthday cake for Unit 4A later in the afternoon on April 29.
- b) On the afternoon of April 29, Ms. Sanders and Ms. Ward met Ms. [REDACTED] outside at her car to take the birthday cake. They observed Ms. [REDACTED] daughter who they knew to be 19 years of age. The daughter appeared to be ill as she was vomiting in the passenger seat. Ms. [REDACTED] advised that the daughter was suffering from a "hang over" and she inquired what would make her daughter feel better. Both Ms. Sanders and Ms. Ward advised that the daughter needed to be rehydrated. Ms. Sanders went on to state that the daughter could receive a litre of fluid bolus and an anti-nausea drug to assist her.
- c) Ms. [REDACTED] and her daughter left the hospital parking lot. Ms. Sanders later received information from Stefanie Ward that [REDACTED] [REDACTED] was returning and would be bringing her daughter to the unit.
- d) [REDACTED] [REDACTED] and her daughter arrived at the unit. Ms. Sanders and Ms. Ward took Ms. [REDACTED] and her daughter to a room which is called the "sterile cockpit". This room is intended for physicians and health care professionals to complete reports and charts.
- e) Ms. Sanders initiated an I.V. by using a clean technique and at the same time, Ms. Ward primed the NS line on an I.V. pole. The daughter was given one litre NS bolus.
- f) Ms. Sanders did not ask any assessment questions of the daughter.
- g) The daughter remained nauseous and pale. Stefanie Ward suggested that Zofran might be used. Ms. Ward left the room and returned with Zofran which was given by a bard infusion.

- h) The entire process took approximately 45 minutes to an hour. While the two nurses were in the “sterile cockpit room”, they were not able to check on their patients on the ward.
  - i) There were two doctors in the sterile cockpit at the time. Ms. Sanders recalls that she advised the doctors of what they doing but the doctors did not respond in any way.
11. Ms. Bartzan interviewed a doctor who was present in the “sterile cockpit room” at the time. The doctor recalled the two nurses entering the room along with Ms. [REDACTED] and another individual. The doctor did not pay attention to what was happening as he was busy with his own work. Later that evening, the doctor contacted the charge nurse and advised what he had seen. The doctor made it clear to Ms. Bartzan that he did not provide any authorization for the procedures the two nurses were involved in.
  12. The charge nurse reported matters to the acting manager and ultimately to Sherilyn Bray.
  13. Both Jennifer Sanders and Stefanie Ward were suspended by the Health Region with pay to allow for the completion of the Health Region investigation.
  14. Ultimately, the Health Region issued two written warning letters to Ms. Sanders and imposed a three day unpaid suspension to be served on May 25, May 26 and May 28, 2017. Attached at **Tab C** are the warning letters and the suspension letter.
  15. Prior to this complaint, Jennifer Sanders has never been the subject of a complaint to SALPN.

Ms. Sanders executed the Agreed Statement of Facts to demonstrate her agreement. Counsel for the Investigation Committee submitted that the Discipline Committee should accept the facts as set out. Counsel for the Investigation Committee also submitted that Ms. Sanders' conduct on the April 29, 2017 constitutes "professional misconduct" under the Act.

Counsel for the Investigation Committee submitted to the Discipline committee a joint recommendation as to penalty as follows:

1. Pursuant to section 30(1)(b) of *The Licensed Practical Nurses Act, 2000* (the "Act") Jennifer Sanders' license to practice shall be suspended for a period of four months as of August 1, 2017.
2. Through the course of the suspension, Jennifer Sanders shall satisfactorily complete the LPN Code of Ethics Learning Module which is available online through the SALPN website. Ms. Sanders shall produce a Certificate of Completion to the Registrar.
3. Pursuant to section 30(2)(a)(ii) of the Act, Jennifer Sanders shall pay costs of the investigation and hearing which costs shall be fixed in the amount of \$2,500.00. The costs shall be paid on or before \_\_\_\_\_. Failing payment, Ms. Sander’s

license shall be suspended pursuant to section 30(2)(b) of the Act until payment of the costs is made.

Ms. Schirr provided further submissions suggesting that Ms. Sanders have until April 2018 to pay her costs and that the suspension not start until September 1, 2017. The proposed delay in serving the suspension was to accommodate the staffing restrictions at Pasqua Hospital. The Discipline Committee confirmed with the Member that she was in agreement with the proposed penalty and made inquiries as to the amount of time required to pay any costs awarded. Ms. Sanders confirmed that she would only require until April 1, 2018 to pay.

## **DECISION:**

The primary issue before the Discipline Committee is whether the conduct of Ms. Sanders, as summarized in the Agreed Statement of Facts, is professional misconduct within the meaning of section 24 of the Act, and if so, where the proposed agreed-upon penalties are appropriate under section 30 of the Act. Sections 24 and 30 of the Act read 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.*

*30(1) Where the discipline committee finds a member guilty of professional misconduct or professional incompetence, it may make one or more of the following orders:*

*(a) an order that the member be expelled from the association and that the member's name be struck from the register;*

*(b) an order that the member's licence be suspended for a specified period;*

*(c) an order that the member's licence be suspended pending the satisfaction and completion of any conditions specified in the order;*

*(d) an order that the member may continue to practise, but only under conditions specified in the order, which may include, but are not restricted to, an order that the member:*

*(i) not do specified types of work;*

- (ii) successfully complete specified classes or courses of instruction;*
- (iii) obtain medical or other treatment or counseling or both;*

- (e) an order reprimanding the member;*
- (f) any other order that the discipline committee considers just.*

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

- (a) that the member pay to the association, within a fixed period:*

- (i) a fine in a specified amount not exceeding \$5,000; and*
- (ii) the costs of the investigation and hearing into the member's conduct and related costs, including the expenses of the counseling and investigation committee and the discipline committee and costs of legal services and witnesses; and*

- (b) where a member fails to make payment in accordance with an order pursuant to clause (a), that the member's licence be suspended.*

*(3) The executive director shall send a copy of an order made pursuant to this section to the member whose conduct is the subject of the order and to the person, if any, who made the complaint.*

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

*(5) The discipline committee may inform a member's employer of the order made against that member where that member has been found guilty of professional misconduct or professional incompetence.*

The Discipline Committee finds, on the basis of the evidence presented to it in the Agreed Statement of Facts set out above, the submissions of Ms. Schirr at the hearing held on July 7, 2017, and the Member's acknowledgement that she did commit acts of "professional misconduct" within the meaning of section 24 of the Act. The Discipline Committee finds that Ms. Sanders' conduct on April 29, 2017 was not in the best interest of the public and is harmful to the best interests of the profession with such conduct reflecting poorly on other licensed practical nurses. The Discipline Committee has concluded that Ms. Sanders' conduct was an exercise of extremely poor judgment and that there is simply no valid excuse for her actions on April 29, 2017. There were numerous opportunities where Ms. Sanders could have stopped herself or Ms. Ward – but she did not. Such a lack of judgment is worthy of a significant penalty.

The Discipline Committee concluded that the joint penalty proposed is reasonable in light of the fact that the Member has co-operated with the Association, agreed to the facts, expressed remorse and has accepted responsibility for her actions. Ms. Schirr also submitted that despite

this display of poor judgment that Ms. Sanders is generally considered to be a good and competent nurse.

Therefore, the Discipline Committee has concluded that the proposed penalty sends an appropriately strong message to the individual Member but also serves as general deterrence as it sends a strong message that such actions, even those that amount to a lapse in judgement, will not be tolerated by the profession. Furthermore, the interests of the public are protected as Ms. Sanders' license is suspended for a period of four (4) months. The Discipline Committee sees no reason to deviate from the penalty proposed.

**ORDERS:**

Upon consideration of the evidence and the submissions of the Investigation Committee, the Discipline Committee issued the following Order on July 12, 2017 for the professional misconduct committed by Ms. Sanders:

1. Pursuant to section 30(1)(b) of the Act Jennifer Sanders' license to practice shall be suspended for a period of four months as of September 1, 2017.
2. Through the course of the suspension, Jennifer Sanders shall satisfactorily complete the LPN Code of Ethics Learning Module which is available online through the SALPN website. Ms. Sanders shall produce a Certificate of Completion to the Registrar.
3. Pursuant to section 30(2)(a)(ii) of the Act, Jennifer Sanders shall pay costs of the investigation and hearing which costs shall be fixed in the amount of \$2,500.00. The costs shall be paid on or before April 1, 2018. Failing payment, Ms. Sanders' license shall be suspended pursuant to section 30(2)(b) of the Act until payment of the costs is made.

DATED at Regina, Saskatchewan, this 28<sup>th</sup> day of July, 2017.



D. Robinson, Chairperson, Discipline Committee of the Saskatchewan Association of Practical Nurses on Behalf of the Discipline Committee consisting of B. Lindsay and E. Cherney.