CARNA College & Association of Registered Nurses of Alberta

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF **BRIANNA MALBOG**, R.N. REGISTRATION #104,623

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 17, 2019

INTRODUCTION

A hearing was held on December 17, 2019 at the College and Association of Registered Nurses of Alberta by the Hearing Tribunal of the College and Association of Registered Nurses of Alberta (CARNA) to hear three complaints against Brianna Malbog, R.N. Registration #104,623.

Those present at the hearing were:

a. Hearing Tribunal Members:

Susan Derk, Chairperson
Lynn Headley
Lisa Heighington
Doug Dawson, Public Representative

b. Legal Counsel to the Hearing Tribunal:

Mary Marshall
James Hart, Observer

c. CARNA Representative:

Leanne Monsma, Conduct Counsel

d. CARNA Member Under Investigation:

Brianna Malbog (sometimes hereinafter referred to as "the Member")

e. CARNA Member's Representative:

Silvie Montier, Labour Relations Officer of the United Nurses of Alberta

PRELIMINARY MATTERS

Conduct counsel and the Member's representative 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.

Pursuant to section 78 of the HPA, the hearing is open to the public.

ALLEGATIONS

The allegations in the Notice to Attend for Complaint #1 were as follows:

While employed as a Registered Nurse at the Royal Alexandra Hospital, Alberta Heath Services (AHS), Edmonton, Alberta, your practice fell below the standard expected of an RN when,

1. On or about July 21, 2017, when caring for [patient 1], you:
    a. Failed to clearly, accurately, and completely document your pain assessment, management, and intervention; and

b. Inaccurately documented the time you administered Hydromorphone;

2. On or about July 21, 2017, when caring for [patient 2], you:
   a. Failed to clearly document your care; and
   b. Failed to demonstrate appropriate management of narcotic supply through Pyxis;
3. On or about July 21, 2017, when caring for [patient 3], you failed to clearly, accurately and completely document your pain assessment, management, and intervention; and
4. On or about July 21, 2017, you left the unit early without authorization.

The allegations in the Notice to Attend for Complaint #2 and Complaint #3 were as follows:

While employed as a Registered Nurse at the Royal Alexandra Hospital, Alberta Health Services (AHS), Edmonton, Alberta, your practice fell below the standard expected of an RN when,

1. On or about December 24, 2017, you assisted [patient 4] into the shower with his wound-vac still attached to the machine contrary to the manufacturer's directions and best practice,
2. On or about March 2, 2018, when caring for [patient 5] with a nursing student, you failed to do one or more of the following:
   a. provide adequate oversight to the nursing student; and/or
   b. adequately monitor whether [patient 5] was voiding,
3. On or about March 27, 2018, after failing to properly insert a new catheter in [patient 6], you:
   a. Failed to notice or correct that you had failed to properly insert the new catheter; and/or
   b. Inaccurately documented "Foley catheter changed tolerated well" when you knew or ought to have known that you had failed to properly insert the new catheter,
4. On or about April 12, 2018, you failed to promptly document your management of [patient 7]'s nasogastric tube, including his intake and output,
5. On or about May 24, 2018, when administering a blood transfusion to [patient 8], you:
   a. Failed to check and/or document his vital signs each hour;
   b. Failed to ensure that the blood transfusion was complete; and/or
   c. Inaccurately documented that the blood transfusion was complete when you knew or ought to have known that it was not, and/or

6. On or about May 29, 2018, you were unprofessional in your communications with an AHS booking clerk after she advised you of changes to your shift schedule.

As part of the consent process, the College agreed to amend the Allegations and the Member admits, as fact, to the following:

While employed as a Registered Nurse at the Royal Alexandra Hospital, Alberta Health Services (AHS) Edmonton, Alberta, your practice fell below the standard expected of an RN when:

1. On or about July 21, 2017, when caring for [patient 1], you:
    a. Failed to legibly and completely document your pain assessment, management, and intervention; and
    b. Inaccurately documented the time you administered Hydromorphone;

("Allegation 1")

2. On or about July 21, 2017, when caring for [patient 3] you failed to legibly and completely document your pain assessment, management, and intervention; and

("Allegation 2")

3. On or about December 24, 2017, you assisted [patient 4] into the shower with his wound-vac still attached to the machine contrary to best practice.

("Allegation 3")

The matter proceeded by way of Consent Agreement.

EXHIBITS

The following documents were entered as Exhibits:

NUMBER	DESCRIPTION
Exhibit #1:	Amended Notice to Attend a Hearing to Brianna Malbog dated December 12, 2019 (Files 104,623-(16-17)-AUG02 and 104,623-(16-17)-AUG23)
Exhibit #2:	Amended Notice to Attend a Hearing to Brianna Malbog dated December 12, 2019 (File 104,623-(17-18)-JUNE15)
Exhibit #3:	Consent Agreement between Brianna Malbog and CARNA Conduct Counsel dated December 17, 2019
Exhibit #4:	CARNA Practice Standards for Regulated Members
Exhibit #5:	2008 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses ("2008 Code of Ethics")
Exhibit #6:	2017 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses ("2017 Code of Ethics")
Exhibit #7:	Joint recommendations for Sanction dated December 17, 2019

NUMBER	DESCRIPTION
Exhibit #8:	MacEwan University Course Outlines for "Documentation in Nursing", NURS 0162; and "Interpersonal Aspects of Nursing", NURS 0173
Exhibit #9:	Excerpt from *Jaswal v. Newfoundland Medical Board*, (1996), 42 Admin L.R. (2d) 233 (Nfld S.C.), at para. 36 ("*Jaswal*")
Exhibit #10:	Excerpt from *R. v. Anthony-Cook*, 2016 SCC 43 ("*Anthony-Cook"*)

SUBMISSIONS ON THE ALLEGATIONS

Conduct counsel made brief submissions on the allegations. There are three complaints that give rise to the two notices to attend a hearing (Exhibit #1 and Exhibit #2). The conduct occurred while the Member was working as an RN in the Surgical Float Pool at the Royal Alexandra Hospital. The complaints were received following the Member's suspension and termination. The Member failed to comply with Alberta Health Services "Foundations of Documentation" and "Charting Guidelines".

Conduct counsel submitted that Section (1)(pp)(i), (ii) and (xii) of the HPA applied. The Member displayed a lack of knowledge, skill, and judgment. The Member failed to legibly and completely document her pain assessments, managements, and interventions for [patients 1 and 3]. The fact that the Member kept the wound-vac machine plugged in while assisting a patient with having a shower displays a lack of skill and judgment.

Conduct counsel submitted that the following provisions of the CARNA Practice Standards for Regulated Members ("Practice Standards") apply:

> Standards: 1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 3.4, 3.5, 4.1, 4.2, 5.2, 5.3, 5.5.

Conduct counsel further submitted the following provisions of the 2008 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses ("2008 Code of Ethics") apply for the first two allegations:

> 2008 Code of Ethics Responsibilities A1 and 5; B3, G1 and 3.

Conduct counsel further submitted the following provisions of the 2017 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses ("2017 Code of Ethics") apply:

> 2017 Code of Ethics Responsibilities A6 and 12; B1; D6; G1, and 3.

The Member's representative submitted that the problem was with documentation. The Member was writing very quickly, and it was very difficult to read. Everything was charted, but not completely. The Member recognizes that this is a problem, and she is taking a charting course. The Member should have disconnected the wound-vac machine, but she left it connected due to a lack of knowledge. It was the first time that she used the device, and she learned from it. The Member is not currently working as an RN.

The Hearing Tribunal adjourned to consider the materials and submissions.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON THE ALLEGATIONS

The Hearing Tribunal orders that the allegations be amended as set out in the Consent Agreement between the Member and conduct counsel (Exhibit #3) and finds that the allegations admitted to by the Member are proven. Based on the admission of the Member, the Hearing Tribunal finds that the Member on or about July 21, 2017, when caring for [patient 1], failed to legibly and completely document her pain assessment, management, and intervention; and inaccurately documented the time she administered Hydromorphone. The Hearing Tribunal further finds that the Member on or about July 21, 2017, when caring for [patient 3], failed to legibly and completely document her pain assessment, management, and intervention.

The Hearing Tribunal further finds that the Member, on or about December 24, 2017, assisted [patient 4] into the shower with his wound-vac still attached to the machine contrary to best practice.

The Hearing Tribunal asked the parties for submissions on the applicability of Practice Standards 5.6 and 5.9, and 2017 Code of Ethics Responsibilities A5 and G4; as well as the deletion of Practice Standard 3.5. Conduct counsel and the Member's representative confirmed that there were no additional submissions regarding the Practice Standards or 2017 Code of Ethics.

The Hearing Tribunal finds that the proven conduct constitutes unprofessional conduct pursuant to Section 1(1)(pp)(i), (ii) and (xii) of the HPA, which states:

> "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 finds that the Member breached the following provisions of the Practice Standards:

> Practice Standards: 1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 3.4, 4.1, 4.2, 5.2, 5.3, 5.5, 5.6, 5.9

Standard One: Responsibility and Accountability

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

Indicators

1.1 The nurse is accountable at all times for their own actions.

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

1.4 The nurse practices competently.

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.

2.5 The nurse documents timely, accurate reports of data collection, interpretation, planning, implementation and evaluation of nursing practice.

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

Standard Three: Ethical Practice

The nurse complies with the Code of Ethics adopted by the Council in accordance with Section 133 of HPA and CARNA bylaws (CARNA, 2012).

Indicators

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

4.1 The nurse coordinates client care activities to promote continuity of ***health services***.

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.

Standard Five: Self-Regulation

The nurse fulfills the professional obligations related to self-regulation.

Indicators

5.2 The nurse follows all current and relevant legislation and regulations.

5.3 The nurse follows policies relevant to the profession as described in CARNA standards, guidelines and position statements.

5.5 The nurse practices within their own level of ***competence***.

5.6 The nurse regularly assesses their practice and takes the necessary steps to improve personal competence.

5.9 The nurse ensures their ***fitness to practice*****.**

The Hearing Tribunal finds that the Member breached the following provisions of the 2008 Code of Ethics:

2008 Code of Ethics Responsibilities A1 and 5; B3, G1 and 3.

A. Providing Safe, Compassionate, Competent and Ethical Care

Nurses provide safe, compassionate and ethical care.

Ethical responsibilities:

A1. 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 as well as with families, communities, groups, populations and other members of the **health-care team**.

A5. Nurses admit mistakes and take all necessary actions to prevent or minimize harm arising from an **adverse event.** They work with others to reduce the potential for future risks and preventable harms. See Appendix D.

B. Promoting Health and Well-Being

Nurses work with people to enable them to attain their highest possible level of health and well-being.

Ethical responsibilities:

B3. Nurses collaborate with other health-care providers and other interested parties to maximize health benefits to persons receiving care and those with health-care needs, recognizing and respecting the knowledge, skills and perspectives of all.

G. Being Accountable

Nurses are accountable for their actions and answerable for their practice.

Ethical responsibilities:

G1. Nurses, as members of a self-regulating profession, practise according to the values and responsibilities in the *Code of Ethics for Registered Nurses* and in keeping with the professional standards, laws and regulations supporting ethical practice.

G3. Nurses practise within the limits of their competence. When aspects of care are beyond their level of competence, they seek additional information or knowledge, seek help from their supervisor or a competent practitioner and / or request a different work assignment. In the meantime, nurses remain with the person receiving care until another nurse is available.

The Hearing Tribunal finds that the Member breached the following provisions of the 2017 Code of Ethics:

2017 Code of Ethics Responsibilities A5, 6 and 12; B1; D6; G1, 3 and 4.

A. Providing Safe, Compassionate, Competent and Ethical Care

Nurses provide safe, compassionate, competent and ethical care.

Ethical responsibilities:

A5 Nurses are honest and take all necessary actions to prevent or minimize **patient safety incidents.** They learn from **near misses** and work with others to reduce the potential for future risks and preventable harms (see Appendix B).

A6 Nurses practise "within their own level of competence and seek [appropriate] direction and guidance . . . when aspects of the care required are beyond their individual competence" (Licensed Practical Nurses Association of Prince Edward Island [LPNAPEI], Association of Registered Nurses of Prince Edward Island, & Prince Edward Island Health Sector Council, 2014, p. 3).

A12 Nurses foster a safe, quality practice environment (CNA & Canadian Federation of Nurses Unions [CFNU], 2015).

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:

B1 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**.

D. Honouring Dignity

Nurses recognize and respect the intrinsic worth of each person.

Ethical responsibilities:

D6 Nurses utilize practice standards, best practice guidelines, policies and research to minimize risk and maximize safety, well-being and/or dignity for persons receiving care.

G. Being Accountable

Nurses are accountable for their actions and answerable for their practice.

Ethical responsibilities:

G1 Nurses, as members of a self-regulating profession, practise according to the values and responsibilities in the *Code* and in keeping with the professional standards, laws and regulations supporting ethical practice.

G3 Nurses practise within the limits of their competence. When aspects of care are beyond their level of competence, they seek additional information or knowledge, report to their supervisor or a competent practitioner and/or request a different work assignment. In the meantime, nurses remain with the person receiving care until another nurse is available.

G4 Nurses are accountable for their practice and work together as part of teams. When the acuity, complexity or variability of a person's health condition increases, nurses assist each other (LPNAPEI et al., 2014).

The breaches of the Practice Standards and the Code of Ethics are serious and constitute unprofessional conduct. The Member is accountable for her practice and must practise in accordance with the Practice Standards and Code of Ethics. The Member's conduct also harms the integrity of the regulated profession. The Member worked as a Licensed Practical Nurse for approximately five years before she became an RN. During her time as a Licensed Practical Nurse she worked at the Royal Alexandra Hospital from 2012-2017. As such, although the Member was a relatively new RN at the time of the complaints, she had significant experience working at the Royal Alexandra Hospital prior to the complaints. The Foundations of Documentation (Exhibit #3, Appendix I) states that documentation "is an essential part of the care you provide; it is required of all health care providers" (page 1, para. 3). The health record safeguards patients through enhanced communication among care providers, and supports the planning, treatment and evaluation of care. The Charting Guidelines are part of the RAH Patient Care Manual (Exhibit #3, Appendix J). The purpose is to assist health care professionals to complete documentation that is consistent, concise and complete. As such, there are guidelines and criteria that the Member should have been aware of through her work at the Royal Alexandra Hospital.

Practice Standard 5.5 provides that a "nurse practices within their own level of ***competence***." Failure to administer hydromorphone as prescribed is an issue related to competence. The factual admissions state that [patient 1] was ordered to be administered hydromorphone every three hours when necessary. According to [patient 1]'s medication administration record, the Member administered hydromorphone to [patient 1] at 0800 hours, 1100 hours, 1400 hours and 1500

hours. However, the Member did not actually administer hydromorphone to [patient 1] at 1500 hours. Instead, the Member administered hydromorphone to [patient 1] at approximately 1721 hours. Further, failure to unplug the wound-vac is an issue related to competence.

SUBMISSIONS ON SANCTION AND COMPLIANCE

The Hearing Tribunal heard submissions on the appropriate sanction.

Submissions by Conduct Counsel:

Conduct counsel noted that there was a joint recommendation for sanction. Conduct counsel reviewed in detail the joint recommendation. 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*:

   These are not the most serious allegations, but they are not trivial.

2. *The age and experience of the member:*

   The Member registered in 2016 and was a fairly new member in 2017.

3. *The previous character of the member:*

   There are no previous issues, but this hearing is dealing with three different complaints.

5. *The number of times the offence was proven to have occurred:*

   The unprofessional conduct occurred on a couple of different occasions. The first two allegations involve the same date, although they involve two different patients. The third allegation happened sometime later.

6. *The role of the registered nurse in acknowledging what occurred:*

   The Member made admissions, and this is a significant mitigating factor.

7. *Whether the member has already suffered serious financial or other penalties:*

   The Member was terminated as a result of the conduct.

8. *The impact on the offended patient:*

   It does not appear that patients were impacted, but there was a definite potential. There was a risk to [patient 4] when he was given a shower with his wound-vac plugged in.

10. *The need to promote specific and general deterrence:*

    The recommended sanction promotes both specific and general deterrence. The Member is deterred from engaging in unprofessional conduct while the sanction sets an example for other members.

Conduct counsel submitted that the Hearing Tribunal is not bound to accept joint submissions as to sanction. However, the Hearing Tribunal is required to give significant deference to joint recommendations as to penalty. They should not be rejected just because they are different than what the Hearing Tribunal would impose. Joint submissions are to be encouraged, and if they are interfered with too lightly, it would discourage joint submissions. In the criminal context, the governing decision is *Anthony-Cook*, and the question is whether it would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. In the disciplinary context, the question is whether the recommended sanction goes against the public interest.

Submissions by the Representative for the Member

The Member graduated in 2016 and did not know how to chart. She has a lack of skills and experience, and needs remediation. The Member has agreed to a Performance Evaluation of 500 hours, which is really extensive. There will be at least 6 months and up to a year observation for the Performance Evaluation. An RN supervisor will have to observe the Member and how she practices. This should reassure the Hearing Tribunal that the regulator will be aware if the Member is not practising to standard.

Post-adjournment submissions

The Hearing Tribunal adjourned to consider the submissions and evidence, and then reconvened to ask for further submissions regarding paragraph 4(b) of the Joint Recommendations (Exhibit #7). Specifically, the Hearing Tribunal requested further submissions regarding whether the goals of public protection and patient safety were adequately addressed by the current components of the Performance Evaluation. The Hearing Tribunal requested submissions regarding Jaswal factor number 13 regarding the range of sanctions in other cases, specifically the components of a Performance Evaluation when a Member displays a lack of knowledge, skill, and judgment.

Following an adjournment, conduct counsel and the Member's representative made further submissions. Conduct counsel submitted that the components of the Performance Evaluation were carefully considered and negotiated. They address the nature of the allegations. There are concerns about skill and competence, and the parties have agreed that the Performance Evaluation should include "specific skills that are necessary on the unit". The Member's representative submitted that there was agreement that it was not necessary to add any other components to the Performance Evaluation.

The Hearing Tribunal adjourned to consider the additional submissions and then reconvened to ask for further submissions regarding the following additional factors for the Performance Evaluation:

- assessment skills (both initial assessment and ongoing assessment of patient's condition; use of all equipment for assessment and ongoing monitoring of all aspects of a patient's clinical status);
- implementation of appropriate nursing interventions based on the assessment;
- taking responsibility to ask questions and find necessary information; and
- communication style with other members of the health care team – whether it is respectful, professional, polite, helpful and clear.

Conduct counsel and the Member's representative submitted that the joint recommendations for sanction address patient safety and public protection.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON SANCTION

The Hearing Tribunal has carefully considered the joint recommendations on sanction and the submissions of the parties. The Hearing Tribunal has also considered the factors noted in *Jaswal.* The Hearing Tribunal understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate nurses. This is achieved through a penalty that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation and remediation. The Hearing Tribunal also considered the sanction in light of the principle that joint submissions should not be interfered with lightly. In the situation before the Hearing Tribunal there are joint recommendations for sanction. The Hearing Tribunal applied the test based on the decision in *Anthony-Cook* and was agreed to by the parties when assessing the sanction. The Performance Evaluation is a key component of the protection of the public. The Member has displayed a lack of knowledge of or a lack of skill or judgment in the provision of professional services. In order to protect the public, the Performance Evaluation must consider the following additional factors: assessment skills (both initial assessment and ongoing assessment of patient's condition; use of all equipment for assessment and ongoing monitoring of all aspects of a patient's clinical status); implementation of appropriate nursing interventions based on the assessment; taking responsibility to ask questions and find necessary information; and communication style with other members of the health care team – whether it is respectful, professional, polite, helpful and clear. These are all factors that are commonly included in CARNA orders where competency is at issue, and are essential to protect the public in this particular situation. The addition of these factors to the Performance Evaluation addresses the issues that brought this Member before the Hearing Tribunal.

The reprimand provides specific deterrence to the Member by providing a public and professional perspective regarding the serious implications of her actions. Completion of the courses will provide the Member with remediation. The penalty also conveys the seriousness of ensuring the safe and appropriate care of a patient.

The Member should take the comments in the written decision as well as the concerns expressed by the Hearing Tribunal with respect to her conduct as her reprimand. In addition, the Member should consider her experiences in dealing with this complaint before this Hearing Tribunal and CARNA, and her experiences with her employer and co-workers as well as the joint submissions on sanction as a reminder of how important it is to practice in accordance with the Practice Standards and Code of Ethics.

ORDER OF THE HEARING TRIBUNAL

The Hearing Tribunal orders that:

1. Brianna Malbog (the "Member") shall receive a reprimand.

2. By no later than **June 17, 2020**, the Member shall provide proof satisfactory to the Complaints Director, that the Member has successfully completed and passed the following courses of study:

    a. Documentation in Nursing (NURS 0162 from MacEwan University); and

b. Interpersonal Aspect of Nursing (NURS 0173 from MacEwan University).

3. When the Member becomes employed as a Registered Nurse, the Member shall:

a. provide to the Complaints Director a letter from her prospective employer that:

i. advises of the anticipated employment setting and workplace (the "Employment Setting");

ii. confirms that a Registered Nurse manager at the Employment Setting (the "Supervisor") has read the Decision in this matter (including allegations, findings and Order); and

iii. indicates that the Supervisor is prepared to provide to CARNA one (1) Performance Evaluation on the Member on the terms set out in the paragraphs below;

(the "Employment Setting & Supervisor's Confirming Letter"); and

b. have the Employment Setting as set out in the Employment Setting & Supervisor's Confirming Letter approved by the Complaints Director.

4. The terms of the Performance Evaluation are:

a. The Supervisor will:

i. personally observe and obtain feedback from Registered Nurse(s) who work the same shifts or roles that the Member is working and who have ample opportunities to observe all aspects of the Member's nursing practice; and

ii. obtain feedback from other members of the health care team, patients and their families and will do chart audits.

b. The Performance Evaluation:

i. must consider the completion of at least five hundred (500) nursing practice hours after the Complaints Director approves the Employment Setting & Supervisor's Confirming Letter and whereby such hours occur at the Employment Setting;

ii. must be satisfactory to the Complaints Director, indicating that the Member is performing to the standard expected of a Registered Nurse;

iii. must specifically comment on all of the following:

- Charting (all aspects, plus narcotic records);
- Assessment skills: both initial assessment and ongoing assessment of patient's condition; use of all equipment for assessment and ongoing monitoring of all aspects of a patient's clinical status;
- Implementation of appropriate nursing interventions based on the assessment;
- Taking responsibility to ask questions and find necessary information;
- Specific skills that are necessary on the unit;
- Communication style with other members of the health care team – whether it is respectful, professional, polite, helpful and clear;

- Following the policies of the unit regarding all aspects of nursing practice; and
- Any other issues that the Supervisor thinks are relevant.

5. From the date that the Complaints Director approves the Employment Setting (as required under paragraph #3b above), the Member is prohibited from working as a Registered Nurse in any setting except the Employment Setting until the Member has submitted the Performance Evaluation mentioned in paragraph #4 above which is satisfactory to the Complaints Director, unless the Member obtains permission from the Complaints Director to obtain other employment, in which case a Performance Evaluation (as described in paragraph #4 above) will be required from the Supervisor up to the date the Member's employment ended (if it ended) and from the new employer as well.

6. For clarity and certainty, the Member is, in addition to what is set out in this Order, required to complete any and all requirements as have or may be imposed from CARNA's Registration Department. This Order does not supersede or, if complied with, serve to satisfy any such requirements from CARNA's Registration Department.

COMPLIANCE

7. Compliance with this Order shall be determined by the Complaints Director of CARNA. All decisions with respect to the Member's compliance with this Order will be in the sole discretion of the Complaints Director.

8. Proof of compliance with all requirements under this Order must be received by the Complaints Director of CARNA by the deadlines set out in the Order. Should the Member be unable to comply with any of the deadlines for completion set out herein, the deadline(s) may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Director. The Member must provide written reasons for the extension request. Decisions to extend timelines will be in the sole discretion of the Complaints Director.

9. Should the 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 the *HPA*, and, in so doing, may rely on any non-compliance with this Order as grounds to make a recommendation under 65 of the *HPA* which may include suspension of the Member's practice permit.

10. The responsibility lies with the Member to comply with this Order. It is the responsibility of the Member to initiate communication with CARNA for any anticipated non-compliance and any request for an extension.

CONDITIONS

11. Regarding conditions, the Registrar of CARNA will be requested to put the following conditions against the Member's practice permit (current and/or future) and shall remain until the condition is satisfied:

    a. Course work required (Call CARNA)

b. Performance Evaluation required (Call CARNA)

c. Restricted re-employment setting (Call CARNA)

12. Effective **December 17, 2019** or the date of this Order if different from the date of the Hearing, should the above condition remain unfulfilled, notifications of the above condition shall be sent out to the 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 Member is also registered (if any).

13. Once the 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 college of the other Canadian jurisdictions.

14. This Order takes effect **December 17, 2019** 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 *Health Professions Act*.

Respectfully submitted,

Susan Derk, Chairperson
On Behalf of the Hearing Tribunal

Date of Order: December 17, 2019