

*Saskatchewan Registered Nurses' Association
Chelsea L Kemp GN#0044155*

INVESTIGATION COMMITTEE
of the
SASKATCHEWAN REGISTERED NURSES' ASSOCIATION

- and -

Chelsea L Kemp
Saskatchewan GN #0044155
REGINA, SASKATCHEWAN

DECISION OF THE DISCIPLINE COMMITTEE
SASKATCHEWAN REGISTERED NURSES' ASSOCIATION

Legal Counsel for the Investigation Committee:	Roger Lepage
Legal Counsel for Chelsea Kemp GN:	None
Legal Counsel for the Discipline Committee:	Darcia Schirr, Q.C.
Chairperson for the Discipline Committee:	Moni Snell, RN(NP)

Date of Hearing: December 3, 2018

Location: Saskatchewan Registered Nurses' Association
2066 Retallack Street
Regina, Saskatchewan
S4T 7X5

Date of Decision: February 28, 2019

INTRODUCTION

1. The Discipline Committee of the Saskatchewan Registered Nurses' Association (SRNA) convened to hear and determine a complaint of professional misconduct against Graduate Nurse #0044155, Chelsea L Kemp on December 3, 2018. The Discipline Committee is established pursuant to section 30 of the *Registered Nurses Act 1988* (the *Act*).
2. The charges against Ms. Kemp are outlined in a Notice of Hearing of Complaint dated October 23, 2018. There are five charges of professional misconduct and those charges are as follows:

Charge Number 1

- (a) You, CHELSEA L KEMP, are alleged to be guilty of professional misconduct that occurred between the dates of March 30, 2016 and March 28, 2018, when you failed to disclose your Licensure Agreement with the SRNA to your potential employer, [REDACTED], in Regina, Saskatchewan as required by the Registrar's decision of January 12, 2016 and your Licensure Agreement of January 27, 2016;

Charge Number 2

- (b) You, CHELSEA L KEMP, are alleged to be guilty of professional misconduct that occurred between the dates of March 30, 2016 and April 6, 2016, when you falsely used the title of Registered Nurse, by stating to your potential employer, [REDACTED], that you would be a Registered Nurse by the commencement of your employment in May, 2016;

Charge Number 3

- (c) You, CHELSEA L KEMP, are alleged to be guilty of professional misconduct that occurred between the dates of March 30, 2016 and April 5, 2018, when you held yourself out as a registered nurse, practiced nursing and were employed as a registered nurse despite the fact that you failed to abide by the terms of the SRNA Registrar's decision of January 12, 2016 and your Licensure Agreement of January 27, 2016 and were ineligible for Licensure as a Registered Nurse;

Charge Number 4

- (d) You, CHELSEA L KEMP are alleged to be guilty of professional misconduct that occurred between the dates of March 27, 2018 and March 28, 2018, when you used the title of Registered Nurse and/or

Graduate Nurse and falsely told your employer, [REDACTED], that you were allowed to perform nursing duties “under supervision”.

Charge Number 5

- (e) You, CHELSEA L KEMP are alleged to be guilty of professional misconduct that occurred between the dates of March 29, 2018 and June 22, 2018, when you failed without reasonable cause to respond to inquiries from the SRNA regarding alleged professional misconduct or professional incompetence.

3. The Notice also sets out particulars for each charge and it is helpful to set out those particulars:

Charge Number 1

- (a) On November 17, 2015, you participated in a good character hearing convened by the Interim Registrar of the SRNA, Barbara H. Fitz-Gerald, pursuant to section 19(1)(b) of *The Registered Nurses Act, 1988* in order to determine whether you should be granted a graduate nurse license.
- (b) On January 12, 2016, the Interim Registrar issued a decision allowing you to obtain registration and graduate nurse licensure with SRNA subject to specific conditions to be included in your Licensure Agreement including:
- attendance at regular counselling sessions;
 - three written performance reviews to be provided at the following intervals: 250, 700 and 1125 graduate or registered nurse practice hours (not including orientation hours).
- (c) On January 28, 2016, you signed a Licensure Agreement with the SRNA which contained a number of conditions including regular written performance reviews which you were to have your employer submit (3.4) as well as your duty to disclose your Licensure Agreement to your potential employers:
- 6.3. For so long as the Licensure Agreement remains in effect the Applicant shall reveal the Licensure Agreement and the conditions and restrictions to prospective and existing employers. In the event that the Applicant seeks a change in employment, the Applicant shall notify the prospective employer upon employment application of the Licensure Agreement and conditions and restrictions.
- (d) Between January 2016 and May 2016, you were employed as a graduate nurse at the [REDACTED] (Sun Country Health Region). On March 30, 2016, you applied for a part-time casual nursing position at [REDACTED] in Regina, SK. You did not provide [REDACTED] a copy of your Licensure Agreement or advise them that your licensing was subject to conditions or restrictions.

Charge Number 2

- (e) During your subsequent interview with [REDACTED] on or about March 30, 2016, you state that you were a nursing student and that you would graduate in May and be able to practice full nursing duties at this time. You provided a pay stub, curriculum vitae and emails confirming your nursing status and that this status would change at the end of May 2016 when your employment would commence.
- (f) You were offered a position as a Registered Nurse commencing on May 24, 2016 based on the information you provided regarding your nursing status.

Charge Number 3

- (g) On May 25, 2016, your Manager at the [REDACTED] (Sun Country Health Region), [REDACTED], submitted a Performance Review to the SRNA pursuant to your Licensure Agreement following the completion of your orientation hours.
- (h) Between May 24, 2016 and April 5, 2018, you were employed as a part-time casual registered nurse at [REDACTED] in Regina, Saskatchewan. You performed nursing duties as well as some reception duties. You did not fulfill any of the additional requirements of your Licensure Agreement during this period. You did not disclose your Licensure Agreement to your employer, advise your employer of the conditions and restrictions you were subject to or advise your employer of any change in your status with the SRNA during this period.
- (i) On March 27, 2018, the SRNA discovered that you were employed as a Registered Nurse for [REDACTED] in Regina, Saskatchewan. The SRNA advised your employer that you were not a registered nurse, that you were last registered as a graduate nurse on May 26, 2016 and that you were not eligible to seek RN licensure.

Charge Number 4

- (j) On March 27, 2018, you met with your employer, [REDACTED] as part of its investigation into your licensure. During this meeting, you admitted to not being a registered nurse, but you falsely claimed that you were allowed to perform certain nursing duties "under supervision" as per your Licensing Agreement.

Charge Number 5

- (k) On March 29, 2018, Erika T. Vogel ("Ms. Vogel", RN Investigator for the SRNA) wrote to you via registered mail to advise you that the SRNA had received a report from the SRNA Registrar on March 28, 2018, expressing concerns about your professional nursing practice. A copy of the report was attached for your information. Ms. Vogel requested a response from you by April 16, 2018.
- (l) On April 9, 2018, Ms. Vogel wrote to you again via registered mail to advise you that it had received a second report on April 5, 2018, this time from your employer,

expressing concerns about your professional nursing practice. A copy of the report was attached for your information. Ms. Vogel requested a response from you by April 23, 2018.

- (m) On April 16, 2018, Ms. Vogel wrote to you again via registered mail confirming that you had requested an extension from the SRNA until May 1, 2018 to prepare your reply and that this extension had been granted. Ms. Vogel also advised you that failure without reasonable cause to respond to inquiries by the SRNA constitutes professional misconduct pursuant to Section 26(2)(m) of *The Registered Nurses Act, 1988*.
 - (n) On April 25, you e-mailed Ms. Carole Reece, RN Investigator (“Ms. Reece”) requesting a further extension to provide responses to both reports by May 8, 2018. This Request was granted.
 - (o) On May 9, 2018, Ms. Reece wrote to you again via registered mail requesting a response by May 24, 2018. Ms. Reece advised you that if it did not hear back from you by this date, the Investigation Committee would proceed with its investigation solely on the basis of the information it had and the matter could be referred to a discipline hearing. Ms. Reece also reiterated that failure without reasonable cause to respond to inquiries by the SRNA constitutes professional misconduct pursuant to Section 26(2)(m) of *The Registered Nurses Act, 1988*.
 - (p) On June 7, 2018, you wrote to Ms. Reece requesting a further extension to provide responses to both reports. Ms. Reece granted you an extension to June 15, 2018
 - (q) On June 22, 2018, Ms. Reece wrote to you via registered mail to advise you that the Investigation Committee met on June 21 and referred your case to a Discipline Hearing.
4. The Notice alleges that Ms. Kemp is guilty of professional misconduct contrary to section 26 of the Act. The relevant provisions are as follows:

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

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

- (l) **failed to comply with the code of ethics of the association;**

(m) **failed without reasonable cause to respond to inquiries from the association regarding alleged professional misconduct or professional incompetence;**

(q) **contravened any provision of this Act or the bylaws.**

5. The Notice also alleges that numerous provisions of the Bylaws, Code of Ethics and Standards and Foundations Competencies have been breached. Those provisions are set out in Appendix A.

HEARING – PHASE 1

6. Ms. Kemp did not attend the hearing nor did any counsel attend on her behalf. Counsel for the Investigation Committee provided an email dated December 2, 2018 that he received from Ms. Kemp. This email was marked as P1. The email in its entirety reads as follows:

Mr. Lepage & hearing committee:

After seeing my medical doctor as discussed with Mr. Lepage, I have been advised not to attend the hearing due to medical reasons. I have attached the medical note with this email.

The last 9 months has been an extremely difficult time for me. It has been detrimental to my health emotionally, mentally, physically, and to my life financially. Everyday has been a constant reminder and a consequence in itself. I sincerely apologize.

I oppose the request to expulsion and strongly hope you take into consideration the time that has passed and suggest an alternate consequence of being suspended with conditions.

**Thank you,
Chelsea Kemp.**

The email attached a note from [REDACTED] simply stated:

The above patient will be unfit to attend hearing on Monday 3/12/2018 due to medical reasons

7. Counsel for the Investigation Committee tendered proof of service of the Notice of Hearing showing that Ms. Kemp was served on October 25, 2018. Counsel also advised that he met with Ms. Kemp twice and advised her that if she did not attend, the Investigation Committee would ask the Discipline Committee to proceed in her absence. Further, the Discipline Committee was advised that a case management conference call was held November 14, 2018 at which time Ms. Kemp advised that in the event she chose not to appear, she would seek to file a document explaining her actions.

8. The Discipline Committee was satisfied that Ms. Kemp was aware of the hearing date and that she had made a choice not to appear. Pursuant to section 30(9) of the *Act*, the Discipline Committee determined that the hearing would proceed in her absence.
9. At the outset of the hearing, counsel for the Investigation Committee filed a document entitled "Notice of Guilty Plea" dated November 27, 2018 signed by Ms. Kemp. This was marked as P3. The key portions of that document are as follows:

I, CHELSEA L. KEMP, registration #0044155, DOB June 12, 1988, acknowledge receipt of the attached Notice of Hearing dated October 23, 2018. It contains five charges.

I hereby plead guilty to all five charges. I admit to the particulars in the Notice of Hearing with respect to the five charges.

I agree that the sentencing hearing will take place on Monday, December 3, 2018 at 9:00 am at the offices of the SRNA at 2066 Retallack Street, Regina, SK, S4T 7X5.

I acknowledge that full disclosure has been made to me.

I acknowledge that I have received the Affidavit of Carole Reece dated November 23, 2018 and the Affidavit of [REDACTED] dated November 23, 2018 and know that they will be filed as evidence at the sentencing hearing.

I have been advised that I can file a document explaining my behaviour with respect to the five charges. I also acknowledge that I will attempt to be personally present at the December 3, 2018 sentencing hearing.

I acknowledge that I was given an opportunity to seek legal counsel and that I hereby waive my right to legal counsel.

10. Counsel for the Investigation Committee called no witnesses but filed two affidavits:
 - (a) Affidavit of Carole Reece sworn November 23, 2018 (P4).
 - (b) Affidavit of [REDACTED] sworn November 23, 2018 (P5).

Ms. Reece is a nursing advisor with the SRNA and she investigated matters underlying the charges. [REDACTED] is a [REDACTED] practicing at [REDACTED] in Regina.

11. The Notice of Guilty Plea refers to a document that Ms. Kemp might file explaining her actions. Ms. Kemp did prepare such a document and provided it to counsel for the Investigation Committee who in turn filed the document with the Discipline Committee. This document is entitled "Explanation in writing dated 11/27/18". Ms. Kemp's explanation consists of 14 pages with various attachments. This was marked as D1. Had Ms. Kemp appeared at the hearing, the Discipline Committee would have required her to swear that the contents of D1 were true.

12. The Affidavit evidence reveals the following:
 - (a) On November 17, 2015, the interim Registrar of the SRNA conducted a good character hearing regarding Ms. Kemp's application for licensure as a graduate nurse. The focus of the hearing was Ms. Kemp's conviction for possession of a weapon for a purpose dangerous to the public peace, her description to the SRNA of the circumstances surrounding that conviction and finally, the fact the Ms. Kemp failed to disclose to the SRNA a conviction for academic misconduct.
 - (b) By decision dated January 12, 2016, the interim registrar allowed Ms. Kemp's application for a graduate nurse license subject to a number of conditions. Those conditions were included in a Licensure Agreement.
 - (c) Ms. Kemp executed the Licensure Agreement on January 28, 2016. One of the provisions of that agreement is as follows:

6.3 For so long as the Licensure Agreement is in effect, the Applicant shall reveal the Licensure Agreement and that conditions and restrictions to prospective and existing employers. In the event that the Applicant seeks a change in employment, the Applicant shall notify the prospective employer upon employment application of the Licensure Agreement and conditions and restrictions.
 - (d) Ms. Kemp failed the NCLEX exam on April 25, 2016. She did not rewrite the examination. Ms. Kemp's graduate license expired on May 28, 2016. The SRNA policy document entitled "Membership Application Graduate Nurse Licensure" provides that a graduate nurse license is a temporary 4 month license that can be issued up to 3 times. As Ms. Kemp did not successfully write the NCLEX, her graduate license expired.
 - (e) [REDACTED] employs registered nurses to assist [REDACTED] with patients including surgery and anesthesia. Chelsea Kemp responded to a job posting by [REDACTED]. The job posting described the requirements as "a valid nursing license".

At the end of May 2016, Ms. Kemp commenced employment at [REDACTED] in the position of registered nurse.

- (f) Ms. Kemp's employment at [REDACTED] was terminated on April 5, 2018. Through the course of her employment, Ms. Kemp never disclosed the existence of the Licensure Agreement.
 - (g) Through the course of her employment at [REDACTED], Ms. Kemp identified herself as a registered nurse to [REDACTED] and the rest of the staff. Ms. Kemp conducted numerous duties within the scope of a registered nurse including placing peripheral intravenous lines, drawing up and administering controlled substances such as midazolam, fentanyl, ketamine, propofol, performing a daily inventory of controlled substances and completion of charting including narcotic records.
 - (h) On March 27, 2018, the SRNA discovered that Ms. Kemp was working as a registered nurse at [REDACTED]. As a result, the SRNA telephoned [REDACTED] and advised that Ms. Kemp was not licensed as a registered nurse. Upon receiving this call, [REDACTED] met with Ms. Kemp. At the meeting, Ms. Kemp maintained that she was able to practice registered nursing duties so long as she was under supervision. Ms. Kemp promised [REDACTED] that she would produce a written copy of her registration status and restrictions. No such documents were provided to [REDACTED].
 - (i) Ms. Kemp's employment with [REDACTED] was terminated on April 5, 2018. By an email of the same date, [REDACTED] advised the SRNA of Ms. Kemp's termination for cause.
 - (j) By letter dated March 27, 2018, Shirley McKay, Director of Regulatory Services/Registrar with the SRNA, submitted a complaint to the Investigation Committee. Correspondence was directed to Ms. Kemp seeking her written response to the complaints filed by Ms. McKay and [REDACTED]. The SRNA also requested Ms. Kemp's response to the complaint filed by [REDACTED]. Despite numerous letters and emails to Ms. Kemp by the SRNA, Ms. Kemp has never submitted a written response to the complaints.
13. In her "Notice of Guilty Plea", Ms. Kemp indicates she is pleading guilty to all 5 charges. However, in her explanation (D1) she appears to deny charges 2 and 4. Even with guilty pleas, the Discipline Committee must engage in the following analysis:
- (a) Ascertain the facts pertaining to each charge.
 - (b) Determine if the facts, as found, constitute proof of the charges.
 - (c) Determine if the charges, as proven, constitute professional incompetence and professional misconduct.

ANALYSIS

Charge Number 1

14. Ms. Kemp has offered a guilty plea to this charge. The Discipline Committee accepts the guilty plea and finds that the evidence proves the charge.
15. Paragraph 5 of the Affidavit of [REDACTED] is as follows:

5. I interviewed Chelsea Kemp for the registered nurse position. During the interview and after she commenced employment as a registered nurse, she never disclosed to me or anyone at [REDACTED] that she had signed a Licensure Agreement with the SRNA imposing terms and conditions on her practice. For example, she never said that [REDACTED] would have to send performance evaluations to the SRNA as a condition of her employment...

16. Disclosure of the Licensure Agreement was a clear condition of both the interim Registrar's decision and the Licensure Agreement that followed. The last page of the Licensure Agreement contains an acknowledgement:

By signing this Licensure Agreement you acknowledge you understand the requirements, and agree to complete the terms and undertakings of the Licensure Agreement as set out by the SRNA.

17. In her explanation, Ms. Kemp attempted to rationalize her conduct, stating that during her job interview, [REDACTED] kept interrupting when she tried to speak about the agreement. The Discipline Committee does not accept that explanation. Even if the agreement was not disclosed in the interview, Ms. Kemp was employed at [REDACTED] for almost 2 years. There can be no rational explanation for her failure to comply with the Registrar's decision and the Licensure Agreement.

Charge Number 2

18. The Discipline Committee finds that the evidence sustains this charge as well. Paragraph 5 of [REDACTED] Affidavit makes this charge out:

5. I interviewed Chelsea Kemp for the registered nurse position. During the interview and after she commenced employment as a registered nurse, she never disclosed to me or anyone at [REDACTED] that she had signed a Licensure Agreement with the SRNA imposing terms and conditions on her practice. For example, she never said that [REDACTED] would have to send performance evaluations to the SRNA as a condition

of her employment. She also told me that she was going to be writing the nursing exam and that she would be a registered nurse by the time she commenced her first day of employment. She was to commence at the end of May 2016. I believed what she told me and had no prior experience in checking whether a person is actually a registered nurse. I had never run into this difficulty at any time before.

Charge Number 3

19. The evidence shows that Ms. Kemp was employed at [REDACTED] from the end of May 2016 until April 5, 2018 (Affidavit of [REDACTED] paragraph 6). The charge alleges that between the dates of March 30, 2016 and April 5, 2018, Ms. Kemp held herself out as a registered nurse, that she practiced nursing and was employed as a registered nurse. To conform with the evidence, the Discipline Committee will amend charge 3 as Ms. Kemp was not employed at [REDACTED] commencing March 30, 2016 – she began her employment at the end of May 2016.

20. In her explanation (D1), Ms. Kemp states “I admit to practicing nursing duties...”. The evidence of [REDACTED] clearly shows the nature of nursing duties Ms. Kemp was involved with through her employment at [REDACTED]. From [REDACTED] Affidavit:
 24. **As part of the investigation carried out by the SRNA, I was asked to gather information from other RNs employed by us to their knowledge of Chelsea practising as a registered nurse. Attached as Exhibit 16 is an email of April 10, 2018 sent by [REDACTED], one of our RN employees, to the SRNA regarding the investigation of Chelsea Kemp. This report confirms that the four RNs in question all observed Chelsea Kemp practice registered nursing from June 2016 to March 2018. I had observed and the other registered nurses observed Chelsea doing registered nursing practice including the following: starting IVs, pushed IV fentanyl, versed, propafol and ketamine, monitored vital signs, maintained airways, did medical and physical assessments, did charting, did patient teaching and discharge planning, and created registered nurse protocols.**

 27. **During the time that the [REDACTED] worked with Chelsea Kemp, I observed her partaking in several duties that were within the scope of a registered nurse. These included but were not limited to placing peripheral intravenous lines, drawing up and administering controlled substances under my supervision such as midazolam,**

fentanyl, ketamine, propofol, attending on recovering patients from intravenous deep sedation and performing a daily inventory of controlled substances. Attached as Exhibit 18 is an e-mail that I received dated June 14, 2018 from my colleague [REDACTED] confirming that he also observed Chelsea Kemp doing the same registered nursing duties.

21. [REDACTED] also provided a random sample of medication records and clinical notes for patients (P5 Exhibits 19 and 20). Ms. Kemp administered controlled substances, signed medication records, worked directly with [REDACTED] and made entries on clinical records under the heading "Nurses Progress Notes".

Charge Number 4

22. In her explanation, Ms. Kemp states "I did not advise [REDACTED] or [REDACTED] that I was able to perform nursing duties under supervision".
23. When the SRNA advised [REDACTED] that Ms. Kemp was not a registered nurse that she was not eligible to seek licensure, [REDACTED] immediately met with Chelsea Kemp and advised her of the call from the SRNA. Paragraphs 9 and 10 of [REDACTED] affidavit is as follows:

9. **On March 27, 2018, I received a call from the SRNA regarding one of my employees, Chelsea Kemp. The caller indicated that Chelsea Kemp is not licensed as an RN. As a result of that call, I spoke to [REDACTED] and we decided to immediately have a meeting with Chelsea Kemp. The meeting occurred on March 27, 2018 at noon at our offices. I advised Chelsea Kemp that I had received a phone call from the SRNA regarding her registration status as a registered nurse. I advised her that the SRNA required that she cease all registered nursing duties immediately pending an investigation.**
10. **After I advised Chelsea of this, she said that she was able to practice registered nursing duties as long as it was under supervision. I asked her to provide a written copy of her registration status and restrictions to me within 24 hours. She stated that she had a copy of this but that she could not remember what the restrictions were.**

Charge Number 5

24. In her explanation, Ms. Kemp responds to this charge as follows:

I admit to failing to respond fully and in details to the SRNA regarding the alleged misconduct.... I was not avoiding the SRNA by any means I was only waiting on confirmation and guidance as to how to respond to the allegations. I did provide the SRNA with evidence and documents pertaining to, however, I do admit that I did not respond in writing to the allegations that were made.

25. The Affidavit of Carole Reece sets out in detail the communication with Ms. Kemp once the complaints were filed. By letter dated March 29, 2018, the SRNA requested Ms. Kemp's written response to the complaint from Shirley McKay. The deadline date for response was April 16, 2018. On April 9, 2018, the SRNA sent another letter to Ms. Kemp, this time providing her with [REDACTED] complaint and asking for her response by April 23, 2018. Ms. Kemp sent an email on April 16 asking for more time to respond. Erika Vogel, SRNA investigator responded within two minutes, asking Ms. Kemp to telephone her. Ms. Kemp did not call Ms. Vogel or anyone else at the SRNA. Ms. Kemp did send another email on April 25 seeking an extension to May 8, 2018 which was granted. No written response was forthcoming from Ms. Kemp and although she did not ask for an extension, the SRNA provided her one further extension to May 24, 2018. On that date, Ms. Kemp emailed requesting another extension which was granted to June 7 and then June 15, 2018. Ms. Kemp never provided a written response to the complaints. The SRNA gave Ms. Kemp every opportunity to provide a written response.

26. Members of any regulated profession are expected to cooperate with the regulatory body and that is an implicit obligation if it is not expressly set out in any Code. If members of a regulated profession do not cooperate, the very purpose of self-regulation breaks down. This charge is sustained based on the evidence.

27. The Discipline Committee finds that each and every one of the charges have been sustained based on the evidence and that the facts underlying each and every charge constitutes professional misconduct.

HEARING – PHASE 2

28. Having found Ms. Kemp guilty of all five charges, the next issue is the imposition of a sanction. Section 31 of the Act sets out the range of sanctions available to the Discipline Committee.
29. In this case, the Investigation Committee recommends that Ms. Kemp be expelled and that her name be struck from the register pursuant to section 31(1)(a) of the Act. The Investigation Committee advised that it was not recommending that Ms. Kemp pay the costs of the investigation or the hearing.
30. At page 14 of her explanation (D1), Ms. Kemp stated:
- I am asking you to suspend me for a period of time, not exceeding 12 months, and again to please consider the 9 months that has passed. I also want to make note that at this time, I will not be pursuing nursing.**
31. As indicated earlier, Ms. Kemp's graduate license expired on May 28, 2016. Counsel for the Investigation Committee submitted that with the expiry of her graduate license, Ms. Kemp became an inactive member but that she remained a member nonetheless. The Investigation Committee further submitted that as Ms. Kemp remained on the register, only an expulsion would remove her from the register.
32. The relevant sections of the Act are as follows:
- 31 Where the discipline committee finds a nurse guilty of professional incompetence or professional misconduct, it may:**
- (a) order that the nurse be expelled from the association and that the nurse's name be struck from the register;**
- ...
- 37 Where a nurse is expelled or suspended from the association pursuant to this Act, the nurse's rights and privileges as a nurse are removed for the period during which the nurse is expelled or suspended.**
33. Relevant provisions from the Bylaws are as follows:

SECTION 1. CATEGORIES OF MEMBERSHIP.

(1) **Membership in the association shall consist of the following categories:**

...

(g) **inactive membership;**

....

SECTION 9. CHANGE OF MEMBERSHIP STATUS

....

(2) **A person who has not renewed his/her membership as a practicing, non-practising, or retired member shall become an inactive member of the association**

(3) **A person who has been suspended or expelled in accordance with the Act shall cease to be a member of the association during the period of suspension or expulsion.**

(4) **An inactive member has no privileges with the association.**

34. Is expulsion the appropriate sanction? In its brief, the Investigation Committee referred to the factors set out in *Camgoz v College of Physicians and Surgeons (1993) 114 Sask R161*. The Discipline Committee is well familiar with the *Camgoz* factors. From the *Camgoz* case:

55 In my respectful view, in determining an appropriate sentence to be imposed on a member of the medical profession found guilty of unbecoming, improper, unprofessional and discreditable conduct, the factors which the respondent ought to take into account include:

1. The nature and gravity of the proven allegations;

2. The age of the offending physician;

3. The age of the offended patient;

4. Evidence of the frequency of the commission of the particular acts of misconduct within particularly, and without generally, the Province;

5. The presence or absence of mitigation circumstances, if any.

6. Specific deterrence;

7. General deterrence;

8. Previous record, if any, for the same, or similar, misconduct; the length of time that has elapsed between the date of any previous misconduct and conviction thereon; and, the member's (properly considered) conduct since that time;
9. Ensuring that the penalty imposed will, as mandated by s. 69.1 of the Act, protect the public and ensure the safe and proper practice of medicine;
10. The need to maintain the public's confidence in the integrity of the respondent's ability to properly supervise the professional conduct of its members;
11. Ensuring that the penalty imposed is not disparate with penalties previously imposed in this jurisdiction, particularly, and in other jurisdictions in general, for the same, or similar acts of misconduct.

35. The Investigation Committee makes these points in its brief:

15. Examining the *Camgoz* factors, all but factors 3 and 4 call for a severe penalty. Practicing without a license and being dishonest about one's licensure is a serious offence which undermines the integrity of the entire system of self-governance. There is evidence that this conduct was repeated many times. Ms. Kemp practiced without a proper license for nearly two years and thus implicitly misled innumerable clients in regard to her qualifications and repeatedly misled her employer by not letting her know about the Licensure Agreement, and later by not letting her inability to obtain a registered nurse license.
17. The dishonesty at issue here has become a pattern of behavior for Ms. Kemp. She has been consistently dishonest. She was dishonest with the Nursing College and dishonest with the SRNA when she applied for her graduate nurse license. She was dishonest with her employer for two years and continued to lack honesty even after being questioned about her Licensure Agreement. She was unresponsive to the Investigation Committee. She also gained personally from her dishonesty through 18 months of employment.

36. The Discipline Committee agrees with those submissions. Ms. Kemp's honesty and integrity was under scrutiny at the good character hearing. In granting Ms. Kemp's graduate license, the SRNA effectively gave Ms. Kemp a second chance. The final paragraph of Ms. Fitz-Gerald's decision is significant:

It is my expectation compliance with these conditions will assist the Applicant both professionally and personally. It is also my expectation that the Applicant does and will appreciate the practice of nursing is a privilege and that the public and members of the profession expect nurses to act with integrity and honesty.

37. One of the conditions set out in the decision of the Interim Registrar and in the Licensure Agreement was the requirement that Ms. Kemp review the *Canadian Nurses Association Code of Ethics* and write a self-reflective essay specifically focusing on the importance of integrity, honesty and accountability. Ms. Kemp did submit such an essay and it was tendered as P7 at the hearing. Ms. Kemp concluded her essay with these statements:

Conclusion

During the character hearing that took place I was able to become accountable for my actions, admit my mistakes of being dishonest and lacking integrity and come forward with the truth. Although at first I feared the consequences of the possibility of never being licensed with the SRNA, ethically and morally it was the correct thing to do. Coming forward has strengthened my character and integrity, my nursing beliefs, as well as the confidence of myself. I have gained the trust and respect of others, as well as the nursing profession itself. I have truly gained insight and reflected continuously to uphold my nursing ethical responsibilities and adhere to the core nursing values of the code of ethics and continue to self-reflect to strengthen these values to ensure patient and public safety, and accountability and integrity of myself.

38. Ms. Kemp has conducted herself completely contrary to the Code of Ethics. The content of her self-reflective essay matched against her conduct in this case is a significant aggravating factor.
39. For the most part, Ms. Kemp's written explanation for her conduct amounts to another aggravating factor. The document is frequently contradictory, inconsistent and shows ongoing deflection of responsibility for her actions to others. Further and at page 14 of her explanation, she states "no patients were harmed by the duties I provided.." Ms. Kemp was involved in nursing duties that carried a risk of significant harm to patients. The fact there was no consequences to patients is only a fortunate coincidence. Her statement shows a lack of insight and accountability.

40. Given all of the facts and circumstances, the Discipline Committee does order that Ms. Kemp should be expelled from the Association and her name struck from the register.

Costs:

41. The Investigation Committee did not recommend an order for costs. The Discipline Committee has the discretion to order costs pursuant to section 31(2)(a)(ii) of the Act. The only basis given was that Ms. Kemp had entered guilty pleas.

42. Many if not most discipline hearings proceed on the basis of guilty pleas and an agreed statement of facts or affidavits. In those cases, costs are also ordered. The rationale for a costs order has been set out in previous Discipline Committee decisions and that rationale comes from an Alberta Court of Queen's Bench decision called *Hoff v Pharmaceutical Association (1994)*:

As a member of the pharmacy profession, the appellant enjoys many privileges.. One of them is being part of a self-governing profession. Proceedings like this must be conducted by the respondent association as part of its public mandate to assure to the public competent and ethical pharmacists. Its costs in so doing may properly be borne by the member whose conduct is at issue and has been found wanting.

43. A "zero" cost order would be the exception in discipline proceedings.
44. In her explanation, Ms. Kemp addressed the possibility of costs at page 14:

This has financially caused a burden that has directed me to another path at this point in my life and things that I need to work on in my personal life. With that being said I am also asking the committee to consider myself not having to pay any costs or fines. Considering I have not had any financial income in the last 9 months and I am still paying the lawyer fees from the previous hearing. This is also the reasoning for not adjourning the case as discussed with Mr. LePage as he was going to ask the committee to have me pay the costs if I had adjourned it.

45. At the hearing, the Discipline Committee expressed reservations to counsel for the Investigation Committee regarding the position on costs. Counsel advised that he would contact Ms. Kemp to advise that the Discipline Committee was considering whether to impose costs. After the hearing concluded, Ms. Kemp sent an email to counsel of the Investigation Committee. Investigation Committee counsel provided that email to legal

counsel for the Discipline Committee. Although the hearing ended, the Discipline Committee did consider Ms. Kemp's email of December 4, 2018 in which she described her apparent dire circumstances, advising that she was "drowning in debt" and had to utilize the food bank and the Salvation Army to provide for [REDACTED]. She also attached screen shots of a credit card balance and her bank accounts.

46. During the hearing, the Investigation Committee did not provide a breakdown as to the actual and anticipated costs and that ought to have been provided even if the Investigation Committee submitted that costs were not being sought. Legal counsel for the Discipline Committee requested that the SRNA provide a breakdown. Ms. Reece submitted a breakdown which appears to show that the costs to the end of the hearing are in the order of just under \$30,000.00.
47. Ms. Kemp is to be commended for entering guilty pleas which meant that the hearing could proceed on the basis of affidavit evidence as opposed to having witnesses testify as that requires time and therefore increases the costs. The Discipline Committee also has some sympathy for Ms. Kemp and her personal circumstances. However, discipline proceedings are costly and the membership as a whole should not bear the costs of these proceedings which were entirely brought about by Ms. Kemp's conduct.
48. Considering all of the circumstances, the Discipline Committee orders that Ms. Kemp should pay costs of the inquiry and hearing fixed in the amount of \$10,000.00 which will be less than approximately one third of the total costs incurred for this proceeding.

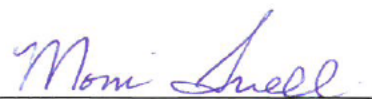
ORDER OF THE DISCIPLINE COMMITTEE

49. The Discipline Committee therefore orders the following:
 - (a) Pursuant to section 31(1)(a) of the Act, Chelsea Kemp shall be expelled from the Association and her name shall be struck from the register. In the event Ms. Kemp seeks reinstatement pursuant to section 38 of the Act and if all or a portion of the

costs have not been paid, payment of the outstanding costs would be a likely condition imposed by Council.

- (b) Pursuant to section 31(2)(a)(ii) of the Act, Chelsea Kemp shall pay the costs of the inquiry and hearing fixed in the amount of \$10,000.00. Such costs should be paid on or before April 1, 2020. In the event Ms. Kemp sought reinstatement pursuant to section 38 of the Act and all or a portion of the costs have not been paid, payment of the outstanding costs would be a likely condition imposed by Council.
- (c) Pursuant to section 31(3) of the Act, a copy of this decision shall be sent to Chelsea Kemp and [REDACTED]
- (d) A copy of this decision shall be forwarded to:
 - (i) The editor of the SRNA news bulletin and the administrator for the SRNA website.;
 - (ii) All Canadian Registrars of registered nurses;
 - (iii) Saskatchewan Association of Licensed Practical Nurses;
 - (iv) Registered Psychiatric Nurses Association of Saskatchewan;
 - (v) The College of Physicians and Surgeons of Saskatchewan;
 - (vi) Any other jurisdiction or other stakeholders as may be seen as appropriate by the Registrar;
 - (vii) All known Saskatchewan employers of nurses.

February 28, 2019



Moni Snell, RN(NP), Chairperson
*On behalf of the Members of the Discipline
Committee*
Beth Ann Duke, RN
Patricia Le Blanc, RN
Joanne Blazieko, RN
Russ Marchuk, Public Representative

Right of Appeal

Pursuant to section 34(1) of *The Registered Nurses Act, 1988*, a nurse who has been found guilty by the discipline committee or who has been expelled pursuant to section 33 may appeal the decision or any order of the discipline committee within 30 days of the decision or order to:

- (a) the council by serving the executive director with a copy of the notice of appeal; or
- (b) a judge of the court by serving the executive director with a copy of the notice of appeal and filing it with a local registrar of the court.

Appendix A

CODE OF ETHICS (CANADIAN NURSES ASSOCIATION, 2008)

Ethical responsibilities:

- A.1 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.**
- A.3 Nurses build trustworthy relationships as the foundation of meaningful communication, recognizing that building these relationships involves a conscious effort. Such relationships are critical to understanding people's needs and concerns.**
- D.1 Nurses in their professional capacity, relate to all persons with respect.**
- F.3 Nurses do not engage in any form of lying, punishment or torture or any form of unusual treatment or action that is inhumane or degrading. They refuse to be complicit in such behaviours. They intervene, and they report such behaviours.**
- G.1 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.**
- G.2 Nurses are honest and practise with integrity in all of their professional interactions.**

STANDARDS AND FOUNDATION COMPETENCIES FOR THE PRACTICE OF REGISTERED NURSES, 2013

Standard 1 – Professional Responsibility and Accountability

The registered nurse:

- 1. Is accountable and accepts responsibility for own actions and decisions.**
- 2. Articulates and enacts the role and responsibilities of a registered nurse as a member of the health care team.**

3. **Recognizes the registered nurse scope of practice and individual competence limitations within the practice setting and seeks guidance as necessary.**
4. **Demonstrates professional presence and models professional behavior.**
5. **Consistently identifies self by first and last name and professional designation to clients and co-workers.**

Standard III – Ethical Practice

The registered nurse:

62. **Practises in accordance with the current *CNA Code of Ethics for Registered Nurses* and the accompanying responsibility statements.**

Standard V – Self-Regulation

The registered nurse:

85. **Practises within the scope of registered nursing practice as defined in *The Registered Nurses Act, 1988*.**