

Saskatchewan Registered Nurses' Association
Aaron J. Bloch, GN#0043227

INVESTIGATION COMMITTEE
of the
SASKATCHEWAN REGISTERED NURSES' ASSOCIATION

- and -

Aaron J. Bloch
Saskatchewan GN #0043227
REGINA, SASKATCHEWAN

DECISION OF THE DISCIPLINE COMMITTEE
SASKATCHEWAN REGISTERED NURSES' ASSOCIATION

Legal Counsel for the Investigation Committee:	Roger Lepage
Legal Counsel for Aaron Bloch:	None
Legal Counsel for the Discipline Committee:	Darcia Schirr, Q.C.
Chairperson for the Discipline Committee:	Michell Jesse

Date of Hearing: June 24, 2019

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

Date of Decision: August 30, 2019

INTRODUCTION

1. The Discipline Committee of the Saskatchewan Registered Nurses' Association ("SRNA") convened to hear and determine a complaint of professional misconduct against Registered Graduate Nurse #0043227, Aaron J. Bloch on June 24, 2019. The Discipline Committee is established under section 30 of *The Registered Nurses Act, 1988* (the "Act").
2. The allegations against Mr. Bloch are outlined in a Notice of Hearing of Complaint dated May 8, 2019. The Notice sets out two charges which are as follows:

Charge Number 1

4. **You, AARON J. BLOCH, are alleged to be guilty of professional misconduct that occurred between the dates of October 4, 2014 and March 6, 2017;**

(a) On October 4, 2014, in Regina you did:

- (i) **operate a motor vehicle in a manner dangerous to the public, and did thereby cause the death of [REDACTED], contrary to section 249(4) of the *Criminal Code*. The Crown proceeded by indictment. You entered a guilty plea on May 7, 2018**
- (ii) **having care, charge, or control of a motor vehicle that was involved in an accident with [REDACTED], a pedestrian, and knowing that bodily harm has been caused to that person, and is reckless as to whether the death of that person results from that bodily harm and the death of that person so results, and with intent to escape civil or criminal liability did fail to stop your vehicle, give your name and address, or offer assistance to any injured party, contrary to section 252(1.3)(b) of the *Criminal Code*. The Crown proceeded by indictment. You entered a guilty plea on May 7, 2018.**

(b) On November 15, 2016, in Regina you did:

- (i) **while your ability to operate a motor vehicle was impaired by alcohol or a drug, have the care or control of a motor vehicle, contrary to section 255(1) and section 253(1)(a) of the *Criminal Code*. The Crown entered a stay on June 18, 2018**

- (ii) operate a motor vehicle on a street in a manner that is dangerous to the public, contrary to section 249(1)(a) of the *Criminal Code*. The Crown entered a stay on June 18, 2018.
 - (iii) willfully obstruct Constable Kapusa, a Peace Officer, engaged in the lawful execution of his duty by falsely identifying yourself as Jeffrey, contrary to section 129(1) of the *Criminal Code*. The Crown entered a stay on June 18, 2018.
 - (iv) being under arrest for impaired driving, escaped lawful custody, contrary to section 145(1)(a) of the *Criminal Code*. You entered a guilty plea on June 18, 2018.
 - (v) without reasonable excuse, fail or refuse to comply with a demand made to you by a peace officer pursuant to section 254(3)(b) of the *Criminal Code* to provide samples of blood for analysis, contrary to section 254(5) of the *Criminal Code*. You entered a guilty plea on June 18, 2018.
 - (vi) being at large on your undertaking entered into before a justice and being bound to comply with a condition of not possessing or consuming alcohol or drugs that have not been prescribed for you by a doctor and not enter any place for the sale of alcohol, such as bars or liquor stores, fail without lawful excuse to comply with those conditions, contrary to section 145(3) of the *Criminal Code*. You entered a guilty plea on June 18, 2018.
- (c) On November 24, 2016, in Regina you did:
- (i) operate a motor vehicle while being pursued by a peace officer, did fail without lawful excuse and in order to evade the peace officer, to stop the motor vehicle as soon as reasonable, contrary to section 249.1(1) of the *Criminal Code*. the Crown proceeded by indictment. You entered a guilty plea on June 18, 2018.
- (d) On December 28, 2016, in Regina you did:
- (i) having been named in an appearance notice, that has been confirmed by a justice, fail without lawful excuse to appear at Regina Police Service for the purposes of the identification of *Criminals Act*, contrary to section 145(5) of the *Criminal Code*. The Crown entered a stay on June 18, 2018

- (e) On March 6, 2017, in Regina you did:
- (i) being at large on your undertaking entered into before a justice and being bound to comply with a condition not to possess or consume alcohol or drugs that have not been prescribed for you by a doctor and not enter a place for sale of alcohol, such as bars or liquor stores, fail to comply with that condition contrary to section 145(3) of the *Criminal Code*. You entered a guilty plea on June 18, 2018.
 - (ii) being at large on your undertaking entered into before a justice and being bound to comply with a condition to stay inside your residence from 11:00 pm until 7:00 am at [REDACTED], Regina, Saskatchewan, fail without lawful excuse to comply with that condition, contrary to section 145(3) of the *Criminal Code*. You entered a guilty plea on June 18, 2018.

Charge Number 2

5. You, AARON J. BLOCH, are alleged to be guilty of professional misconduct that occurred between the dates of October 4, 2014 and March 6, 2017 for having an addiction to the excessive or habitual use of intoxicating liquor, opiates, narcotics, or other habit forming substances, contrary to section 26(2)(n) of *The Registered Nurses Act, 1988*.
3. The Notice of Hearing alleges that Mr. Bloch is guilty of professional misconduct contrary to section 26(1) and section 26(2)(l), (n), and (q) of the *Act* which is 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;
- (n) an addiction to the excessive or habitual use of intoxicating liquor, opiates, narcotics or other habit forming substances;
- (q) contravened any provision of this Act or the bylaws.

4. The Notice also alleges that Mr. Bloch has breached various provisions of the *Code of Ethics for Registered Nurses, 2008* and the *Standards and Foundation Competencies for the Practice of Registered Nurses, 2013*.

HEARING

5. The Discipline Hearing convened on June 24, 2019. Aaron J. Bloch was not present nor did any legal counsel appear for him. Counsel for the Investigation Committee advised that Mr. Bloch was incarcerated. Counsel further advised that Mr. Bloch had executed a Notice of Guilty Plea which indicated, among other things, that he did not wish to be present at the hearing.
6. The Investigation Committee tendered an exhibit book (P2) which contained Affidavits of Service showing that Mr. Bloch was personally served with the Notice of Hearing. Given that and the Notice of Guilty Plea executed by Mr. Bloch, the Discipline Committee determined that the hearing would proceed in his absence pursuant to section 30(9) of the *Act*.
7. Charge 1 of the Notice sets out a total of 12 criminal charges. For seven of the criminal charges, Mr. Bloch pled guilty and five were withdrawn by the Crown. The proceedings before the Discipline Committee were based on the criminal charges for which Mr. Bloch had tendered guilty pleas in the criminal courts.

SUMMARY OF EVIDENCE

8. As indicated, the Investigation Committee tendered an exhibit book and did not call any witnesses to testify. Based on the exhibit book, these are the material facts:
 - (a) Aaron J. Bloch completed his nursing program on September 19, 2014 and he was granted a graduate nursing license on October 23, 2014 (P1 tab 2).
 - (b) On October 4, 2014, Mr. Bloch was involved in a motor vehicle accident in Regina which resulted in the death of a pedestrian.
 - (c) On April 22, 2015, Mr. Bloch was charged with two offences arising out of the October 2014 incident and those offences were dangerous driving causing death contrary to section 249(4) of the *Criminal Code* and having the care, charge or control of a motor vehicle and knowing that bodily harm had been caused to a

person, leaving the scene with intent to escape civil or criminal liability contrary to section 252(1.3)(b) of the *Criminal Code*. Both of these offences are indictable offences (P1 tab 4).

- (d) Five days after these criminal charges were laid, Mr. Bloch applied to the SRNA for registration as a registered nurse. In the initial registration application form, Mr. Bloch identified the fact that he had been charged with dangerous driving causing death and failing to stop at the scene of an accident (P2 tab 3 – Affidavit of Carole Reece). This disclosure led the Registrar to send a complaint to the Investigation Committee which ultimately resulted in these proceedings. The SRNA did not issue a Registered Nurse license to Mr. Bloch and Mr. Bloch has never been granted a Registered Nurse license.
- (e) On November 15, 2016, Mr. Bloch was involved in another incident in Regina which resulted in six charges under the *Criminal Code*, including operating a motor vehicle while impaired, dangerous driving, obstruction of a peace officer, refusal to provide samples of blood for analysis and being at large on an undertaking. The six charges are described in an Information sworn November 16, 2016 (P2 tab 5).
- (f) Approximately two weeks after the events of November 15, 2016, Mr. Bloch encountered the criminal justice system again when he was charged with operating a motor vehicle while being pursued by a police officer and failing to stop the motor vehicle contrary to section 249.1(1) of the *Criminal Code* (P2 tab 6).
- (g) On May 7, 2018, Mr. Bloch appeared in Court of Queen's Bench Regina and entered guilty pleas to the two offences arising out of the death of the pedestrian on October 4, 2014. Sentencing was adjourned to June 7, 2018.
- (h) A transcript of the sentencing proceedings before Mr. Justice Kalmakoff was part of the exhibit book (P2 tab 10). At the sentencing hearing, the Crown prosecutor described the circumstances of the offence and of the victim. The victim was legally walking in a crosswalk when he was hit by a vehicle operated by Mr. Bloch. The impact caused the victim to propel forward over 15 metres and come to rest against a cement divider. The victim died at the scene. An accident reconstruction specialist determined that the vehicle was travelling at a minimum speed of between 42 and 51 km/hr, although civilians at the scene estimated the vehicle to be travelling at a much higher rate. Mr. Bloch had run a red light. Immediately after the accident, Mr. Bloch left the scene. As there was no good description of the vehicle, the police gathered debris and based on that, determined that a 2008 Ford Escape was involved. The Crown prosecutor also advised that alcohol was a factor. It took the police many months to investigate and determine that Mr. Bloch was responsible.
- (i) Mr. Justice Kalmakoff sentenced Mr. Bloch to a term of imprisonment for 2 years on the dangerous driving causing death charge and a 1 year term of imprisonment for leaving the scene with the intent to escape civil or criminal liability, with those jail terms to be served consecutively. In addition, a five year driving prohibition was imposed (P2 tab 11).

- (j) On June 18, 2018 Mr. Bloch appeared in Provincial Court to be sentenced for offences arising out of the incidents on November 15 and November 24, 2016 and March 6, 2017. The letter Information set out two charges of breach of undertaking. From a transcript of those proceedings (P2 tab 12, page T3), the Crown prosecutor described the circumstances:

With respect to the incident for which Mr. Bloch has pled guilty, on November 15th, 2016, at approximately 3:21, Mr. Bloch was operating a motor vehicle here in Regina in a dangerous manner. While trying to avoid being pulled over by police, he ran two red lights and was driving at a very high rate of speed. Police first observed the Ford Ranger southbound on Cornwall Street onto 12th Avenue while driving the wrong way down a one-way street. Mr. Bloch continued to drive at a high rate of speed eventually being located by police on Quebec Street just south of 14th. Police pulled up behind the vehicle, it was shut off, and Mr. Bloch was observed moving from the driver's seat to the passenger side of the truck.

...

Your Honour, with respect to the Information ending in 0210, this is an incident which occurred on November 24th, 2016, for which Mr. Bloch has accepted responsibility. While conducting a radar in a school zone at 5400 4th Avenue, officers observed Mr. Bloch pass – pass them at 77 miles per hour in a 40-zone with children playing on the schoolground. It appears that the time – oh, it was – it was at noon, Your Honour –

...

Mr. Struthers: Kilometres per hour, I think.

...

Ms. Lane: Did I say miles? I apologize.

...

Ms. Lane: Kilometres per hour. The officer observed Mr. Bloch looking directly at him and had a direct view. He kept driving. The officers made a U-turn, activated the lights, and Mr. Bloch sped up and increased the – the distance between his vehicle and the officers. Several hours later, an officer obtained the plate of the believed suspect. It was determined that, indeed, it was Mr. Bloch who had been driving the vehicle at that time and, indeed, Mr. Bloch admitted that he was speeding down 4th Avenue and he knew that the officer who had arrested him – or who had seen him was, indeed, an officer – a police officer.

With respect to the final allegation for which Mr. Bloch has entered a guilty plea, that being 4433, Your Honour, and this is dated from March 6, 2017, Mr. Bloch has accepted – has taken responsibility for breaching his curfew on – the police were dispatched to [REDACTED] to perform a curfew check on Mr. Bloch. They arrived outside of the residence at which time a black Toyota truck pulled out in the front of the target address and Mr. Bloch exited the truck towards his house.

The time he was to be on curfew was between the hours of 11 and 7. At the time, Mr. Bloch appeared to be heavily intoxicated and – I'm just going to get the exact time for you, Your Honour. This would have been at 2:12. So he has accepted responsibility for having been out in the contravention of his curfew.

(k) For those offences, Judge Fenwick imposed a one year suspended sentence, a one year probation term consecutive to the three year jail term he was already serving, fines totalling \$1,600, and a one year driving prohibition.

9. As indicated earlier, the exhibit book contains a "Notice of Guilty Plea" executed by Aaron J. Bloch (P2 tab 14). In that Notice, Mr. Bloch offered guilty pleas to the two charges of professional misconduct. The Notice also provides as follows:

I have been advised that I can file a document explaining my behavior with respect to the two charges of professional misconduct and my wish to possibly rely on section 38 of *The Registered Nurses Act, 1988* for the reinstatement by council in the future.

10. Mr. Bloch did file documentation as contemplated by the Notice. The Discipline Committee received a handwritten letter from Mr. Bloch dated May 23, 2019 along with a report from Correctional Service Canada entitled "Program Performance Report Final". Mr. Bloch's letter and the report were marked as exhibit D-1. The report details Mr. Bloch's struggles with alcoholic abuse. At page 6 of the Correctional Service Report:

Mr. Bloch shared he is effectively managing his thinking that justifies and supports substance use at this time. Mr. Bloch recognizes that he can no longer have "just a couple drinks" as he it (sic) is almost certain he will drink until he blacks out. He shared he used to believe that he did not understand how or why a person would go for "just one" as he thought when he drank alcohol it was for the purpose of getting drunk or blacking out. He shared he understands now that he can not (sic) drink at all is accepting of this restriction he needs to put on himself in order to maintain his sobriety and positive lifestyle. He admitted that he learned he was a "binge drinking alcoholic" while he was in counselling and Alcoholics Anonymous (AA).

ANALYSIS

11. The October 4, 2014 incident resulting in Mr. Bloch's conviction for dangerous driving causing death and leaving the scene of an accident occurred before he was registered with

the SRNA as a graduate nurse. Given that, the Discipline Committee had to consider whether it had jurisdiction to consider this pre-registration conduct.

12. The Investigation Committee filed a written brief which addressed this issue. The Investigation Committee referred to a number of cases for the proposition that the jurisdiction of a discipline committee extends to pre-membership conduct. Two cases from the Ontario College of Social Workers were particularly helpful to the Discipline Committee. Those cases are *Ontario College of Social Workers and Social Service Workers v. Kline* [2019] and *Ontario College of Social Workers and Social Workers v Ackermann*. From the *Kline* case:

[91] The Panel agrees with the test proposed by the College that the Discipline Committee will have jurisdiction over the pre-membership conduct of a member where such conduct indicates that the member is currently unsuitable to practice the profession as a member of the College. In our view, that test, based on suitability, reflects the correct interpretation of the *Act* and the Professional Misconduct Regulation...

13. The Discipline Committee agrees with this quotation as it is consistent with the public protection mandate of regulatory bodies.
14. In addition to relying on section 26 of the *Act*, the Investigation Committee also relies on section 33 of the *Act*. The provision is as follows:

33 A nurse who has been convicted of an indictable offence pursuant to the *Criminal Code*, the *Food and Drugs Act (Canada)*, the *Controlled Drugs and Substances Act (Canada)* or the *Cannabis Act (Canada)*, may be expelled from the association without further inquiry by resolution of the discipline committee, if that committee finds that the conduct of the nurse giving rise to the conviction makes the nurse unfit to continue to practice registered nursing.

15. Mr. Bloch has been convicted of two indictable offences arising out of the incident on October 4, 2014. Further, the charge arising out of the incident on November 24, 2016, is also an indictable offence.
16. Does the conduct of Mr. Bloch underlying the criminal convictions make him unfit to practice nursing? By his guilty plea to charge 1, Mr. Bloch admits that is the case. Even in

the absence of a guilty plea, the Discipline Committee finds, based on all of the evidence, that the conduct giving rise to Mr. Bloch's numerous convictions makes him currently unfit to continue to practice registered nursing.

17. Similarly, there is ample evidence to sustain charge number 2. By his own admission, Mr. Bloch has an addiction to alcohol. It appears he may be on the right path to sobriety but at the times material to these proceedings, his addiction was excessive and habitual.
18. In addition to alleging that Mr. Bloch's conduct amounts to the breach of sections 26 and 33 of the *Act*, the Notice alleges that numerous provisions of the *Code of Ethics and Standards and Foundations Competencies* have been breached. Many of the *Code* provisions described in the Notice do not apply nor are they relevant to this case. From the 2008 *Code*, the Discipline Committee finds that the only provision relevant is G4:

Nurses maintain their fitness to practice. If they are aware that they do not have the necessary physical, mental or emotional capacity to practice safely and competently, they withdraw from the provision of care after consulting with their employer or, if they are self-employed, arranging that someone else attend to their clients' health-care needs. Nurses then take the necessary steps to regain their fitness to practice.

19. None of the *Standards and Foundation Competencies* apply as it is clear that that document's purpose is to set out criteria for registered nurses "practicing in all domains of nursing practice...". The facts in this case all occurred outside of Mr. Bloch's practice as a registered nurse.

SANCTION

19. The Investigation Committee recommends that Mr. Bloch be expelled pursuant to section 31(1)(a) of the *Act*. By the terms of his Notice of Guilty Plea, Mr. Bloch states "I know that the Investigation Committee will be seeking expulsion and I do not oppose that."
20. Having found that the circumstances leading to Mr. Bloch's convictions for indictable offences make him unfit, expulsion is the only option to the Discipline Committee given the wording of section 33.

21. The Discipline Committee has the discretion to order costs of the investigation and hearing pursuant to section 31(2)(a)(ii) of the *Act*. The Investigation Committee recommends that Mr. Bloch pay costs in the amount of \$30,000.00 to be paid “over a set time period of two years”. An Affidavit from the legal assistant at Miller Thomson was included in the exhibit book (P2 tab 15) which provides a breakdown of the legal costs incurred by the Investigation Committee as of May 23, 2019 along with an estimation of anticipated costs.
22. 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. Alberta 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.

23. Mr. Bloch’s Notice of Guilty Plea does not expressly refer to costs. However, counsel for the Investigation Committee advised that the complete exhibit book was provided to Mr. Bloch which would have included the Investigation Committee brief and the Affidavit of the legal assistant at Miller Thomson.
24. Mr. Bloch is in the middle of a three-year penitentiary term. Upon his release, he will need to rebuild his life and secure employment. The amount of the costs are not insignificant. Given that and Mr. Bloch’s circumstances, the Discipline Committee has determined that a three year deadline to pay the costs is more appropriate and reasonable. The costs should be paid on or before August 1, 2021.

ORDER OF THE DISCIPLINE COMMITTEE

25. The Discipline Committee therefore orders the following:
 - (a) Pursuant to section 31(1)(a) of the *Act*, Aaron J. Bloch shall be expelled from the Association and his name shall be struck from the register.

- (b) Pursuant to section 31(2)(a)(ii) of the *Act*, Aaron J. Bloch shall pay the costs of the investigation and hearing fixed in the amount of \$30,000.00. Such costs should be paid on or before August 1, 2021. In the event Mr. Bloch seeks reinstatement pursuant to section 38 of the *Act* and all or a portion of the costs have not been paid by the deadline date for payment, payment of the outstanding costs will be a likely condition imposed by Council.
- (c) 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; and
 - (vi) any other jurisdiction or other stakeholders as may be seen as appropriate by the Registrar.

August 30, 2019



Michell Jesse, RN, Chairperson
*On behalf of the Members of the Discipline
Committee*

Lynda Kushnir Pekarul, RN

Joanne Blazieko, RN

Leonard Wegner, RN

Russ Marchuk, Public Representative

Appeal

34(1) 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.

Reinstatement

38(1) A person who has been expelled as a nurse may apply to the council for reinstatement.

(2) Subject to the bylaws, on receipt of an application pursuant to subsection (1), the council shall:

- (a) review the application; and
- (b) investigate the application by taking any steps it considers necessary.

(3) On the completion of its investigation, the council may:

- (a) where it is satisfied that the person's subsequent conduct and any other facts warrant reinstatement, order that the person be reinstated as a nurse on any terms and conditions that the council considers appropriate; or
- (b) refuse to reinstate the person.