

NOTICE OF HEARING OF COMPLAINT

TO: JESSICA L. WAGNER

Viscount SK

AND: Saskatoon SK

AND: Saskatoon SK

A. JURISDICTION

1. At all times material to the charges hereinafter set out you were on the Register and were a member of the Saskatchewan Registered Nurses Association (SRNA);
2. At the time of the incident contained in the charges, your licence from the SRNA to practice registered nursing in Saskatchewan had commenced November 6, 2017 through to today as an active RN;
3. The Investigation Committee of the SRNA reviewed and investigated a complaint regarding your conduct and, pursuant to paragraph 28(3)(a) of *The Registered Nurses Act, 1988*, hereby recommends that the Discipline Committee hear and determine a formal complaint regarding the following charges:

B. CHARGES

Charge Number 1

4. You, JESSICA L. WAGNER, are alleged to be guilty of professional misconduct that commenced on November 1, 2017, when contrary to section 26 of *The Registered Nurses Act, 1988*, you gave false answers to questions 1 and 2 of the RN Initial Registration Good Character Declaration. By so doing, you led the SRNA to believe that there was no encumbrance on your LPN licence at SALPN. As a result, the SRNA granted you an RN licence on November 6, 2017.

Charge Number 2

5. You, JESSICA L. WAGNER, are alleged to be guilty of professional misconduct when at the end of November of 2017, contrary to section 26 of *The Registered Nurses Act, 1988*, you submitted your renewal form for 2018 and answered "no" to the good character question "Are you currently the subject of a discipline hearing, investigation or is your registration currently encumbered with conditions or restriction in any way by a registration/licensing authority for any occupation/profession in any province, territory, state or country?". This was a false answer. By so doing, you led the SRNA to believe that there was no encumbrance at SALPN regarding your LPN licence. As a result, the

SRNA granted you an RN licence from December 4, 2017 through to November 30, 2018.

Charge Number 3

6. You, JESSICA L. WAGNER, are alleged to be guilty of professional misconduct when from August 23, 2018 to January 28, 2019, contrary to section 26(2)(m) of *The Registered Nurses Act, 1988*, you failed without reasonable cause to respond to inquiries from the association regarding alleged professional misconduct regarding a complaint received by the SRNA from SALPN dated April 6, 2018 and forwarded as a complaint to the Investigation Committee on August 22, 2018.

C. RELEVANT LEGISLATION AND BYLAWS

7. The above alleged professional misconduct is contrary to section 19 and subsections 26 (1) and (2) of *The Registered Nurses Act, 1988*:

Registered nurse

19(1) The council may register as a registered nurse and issue a licence to practise registered nursing to a person who produces evidence establishing to the satisfaction of the council that the person:

(a) either:

(i) has:

(A) successfully completed a basic registered nursing education program given:

(I) in Saskatchewan and approved by the council; or

(II) outside Saskatchewan and recognized by the council as being equivalent to a Saskatchewan registered nursing education program approved by the council; and

(B) passed examinations:

(I) prescribed and conducted pursuant to the bylaws; or

(II) recognized by the council as being equivalent to examinations mentioned in subclause (i); or

(ii) is registered as the equivalent of a registered nurse in good standing pursuant to the legislation of another jurisdiction in Canada, or the legislation of a jurisdiction outside of Canada that is recognized by the council;

(b) is of good character; and

(c) has complied with the bylaws with respect to registration.

Professional misconduct

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;
- (p) obtained registration by misrepresentation or fraud;
- (q) contravened any provision of this Act or the bylaws.

8. The above alleged professional misconduct is also contrary to the *Saskatchewan Registered Nurses Association Bylaws, 2017* and, more particularly, Bylaw V, Section 3(3)-(5), *Maintaining Eligibility for Registration*.
9. The above alleged professional misconduct is also contrary to the *Code of Ethics for Registered Nurses, 2017* and, more particularly, Ethical Responsibilities A1, A3, D1, F4, G1 and G2.
10. The above professional misconduct is also contrary to the *Standards and Foundation Competencies for the Practice of Registered Nurses, 2013* and, more particularly, Standard I – Competencies 1, 4 and 25 a.; Standard III – Competencies 62 and 70; and, Standard V – Competency 84.

D. PARTICULARS

Particulars of the alleged professional misconduct are that:

11. On July 28, 2017, you completed the Saskatchewan Collaborative BSc in Nursing. At the time, you were working as an LPN and licensed by SALPN.
12. On October 22, 2017, you applied for initial RN registration with the SRNA. On November 1, 2017, you submitted your RN Initial Registration good Character Declaration form and answered “no” to questions 1 and 2. These answers were false.
13. At the end of November 2017, you answered “no” to the good character question “are you currently the subject of a discipline hearing, investigation or is your registration currently encumbered with conditions or restrictions in any way by a registration/licensing authority for any occupation /profession in any province, territory, state or country?” This answer was false.
14. On April 6, 2018, SALPN sent a letter to the Registrar of the SRNA advising that you were in breach of good standing at SALPN. On March 10, 2017, you were found to be in non-compliance for a criminal record check audit. On April 10, 2017, you signed a ticket pleading guilty to the charge but did not attach a payment for the \$500 fine. On May 4, 2017, you agreed to pay to SALPN four instalment of \$125 fulfilling your guilty plea requirement. On August 24, 2017, you told SALPN you would send four post-dated cheques for September 2017 to December 2017 but you failed to do so.
15. The letter of April 6, 2018 from SALPN led the Registrar to review your registration file. She determined that you had provided false answers in your application and licence

documentation and, after you failed to respond to her inquiries, she sent a letter of complaint to the Investigation Committee of the SRNA on August 20, 2018.

16. The Registrar and the Investigation Committee sent you communications requesting a response to the alleged professional misconduct as follows:
- (a) voice mail from SRNA to you on April 18, 2018 asking you to call the SRNA but received no response;
 - (b) e-mail from SRNA to you dated April 18, 2018, but received no response;
 - (c) registered letter from SRNA to you dated April 25, 2018 stating you must contact the SRNA to provide a response by May 7, 2018. The letter was returned unclaimed on May 22, 2018;
 - (d) on July 9, 2018, SRNA retains the services of a process server to personally serve you with a letter to request that you respond no later than July 27, 2018 to the SALPN allegation. The process server served you personally on July 10, 2018 but no response was received from you;
 - (e) registered letter from Carole Reece, SRNA, to you dated August 23, 2018 asking that you respond no later than September 7, 2018 to the allegations of professional misconduct. The letter was returned unclaimed on September 11, 2018;
 - (f) e-mail and phone call from Carole Reece, SRNA, to you dated September 11, 2018. You failed to respond;
 - (g) phone call from Carole Reece, SRNA, to you on September 19, 2018 leaving a message. You failed to respond;
 - (h) phone call from Carole Reece, SRNA, to you on September 24, 2018 leaving a message. You failed to respond;
 - (i) registered letter from Amanda Haas, SRNA, to you dated September 27, 2018 asking that you respond no later than October 12, 2018;
 - (j) phone call from Amanda Haas, SRNA, to you on October 3, 2018 leaving a message requesting a call back;
 - (k) e-mail from you to Carole Reece dated October 9, 2018 apologizing for the delay in responding and states "I have not been diligent in dealing with this manner, this has been a very difficult year, mentally, emotionally and financially for myself and I have been avoiding dealing with many issues, which is not the best way to handle it. I apologize for this, and I would like to rectify this situation and do anything I need to clear it up."
 - (l) e-mail from Amanda Haas, SRNA, to you dated October 15, 2018 saying you need to respond to the allegations of professional misconduct. You failed to respond;
 - (m) e-mail from Amanda Haas, SRNA, to you dated November 5, 2018 giving final notice that Investigation Committee meeting on November 15, 2018 and need your response no later than November 9, 2018. You failed to respond;

- (n) licensing department of SRNA received communication from you completing your licence renewal for December 1, 2018 through to November 30, 2019 where you correctly identified that you were under investigation;
 - (o) e-mail from Amanda Haas, SRNA, to you dated November 5, 2018 saying have not received your formal response to the allegations against you nor received any contact since October 9th, despite numerous attempts to reach you by phone and e-mail. Advised that Investigation Committee is meeting to consider the complaint November 15, 2018. You were advised on how to proceed and that a formal written, signed and dated response to the allegation of professional misconduct was required. The SRNA has not heard from you despite two additional e-mails. You were advised that you had until November 9, 2018 to respond to the allegation. You failed to respond;
 - (p) registered letter from Amanda Haas, SRNA, to you dated December 10, 2018 sending a Consensual Complaint Resolution Agreement (CCRA) for your signature and to be returned no later than December 24, 2018. The Investigation Committee decided at its November 15, 2018 meeting to offer this CCRA. The letter was returned unclaimed on January 2, 2019;
 - (q) January 3, 2019, Amanda Haas, SRNA, spoke to you at work at [REDACTED] and you provided the following new address ([REDACTED] Saskatoon, SK, [REDACTED]). You were advised that should you not return the signed CCRA, your case would be referred to a discipline hearing. You assured Amanda Haas that you would sign it and return it back in time. You confirmed that your phone number on the SRNA file is still current. As a result, the SRNA started sending registered letters to that address;
 - (r) registered letter from Amanda Haas, SRNA, to you dated January 7, 2019 to new address ([REDACTED] Saskatoon, SK, [REDACTED]) sending the CCRA for your signature and to be returned no later than January 21, 2019. The letter was returned unclaimed on January 28, 2019;
 - (s) phone message from Amanda Haas, SRNA, to you on January 29, 2019 advising that the CCRA was returned unclaimed and that the matter was being referred to a discipline hearing. You failed to respond; and
 - (t) registered letter from Amanda Haas, SRNA, to you dated January 30, 2019 sending the CCRA for your signature and to be returned no later than February 12, 2019. The letter was returned unclaimed on February 19, 2019.
17. The Investigation Committee met on February 14, 2019 and decided to refer your case to a discipline hearing.

E. DATE, TIME AND PLACE OF HEARING

18. NOW THEREFORE TAKE NOTICE that the Discipline Committee will hear the charges and such evidence as may be tendered with respect to them starting at 9 o'clock in the forenoon on Monday, the 9th day of December, 2019 at the offices of the SRNA, Brunskill Room, 2066 Retallack Street, Regina, Saskatchewan, and from day to day thereafter until the charges have been heard.

19. TAKE NOTICE THAT at the said time and place you have the right to be present with counsel and a support person.
20. TAKE NOTICE THAT, in default of you attending at the said time and place, the Discipline Committee may, on proof of service of this Notice on you and/or your legal counsel, proceed with the hearing of said charges, and the evidence with respect to them.

F. DISCIPLINARY POWERS

21. TAKE NOTICE THAT, if the Discipline Committee finds you guilty of professional misconduct, the Committee may order one or more of the following pursuant to section 31 of *The Registered Nurses Act, 1988*:

31(1) 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;
- (b) order that the nurse be suspended from the association for a specified period;
- (c) order that the nurse may continue to practice only under conditions specified in the order which may include, but are not restricted to, an order that the nurse:
 - (i) not do specified types of work;
 - (ii) successfully complete specified classes or courses of instruction;
 - (iii) obtain treatment, counselling or both;
- (d) reprimand the nurse; or
- (e) make any other order that to it seems just.

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

- (a) that the nurse pay to the association within a fixed period:
 - (i) a fine in a specified amount;
 - (ii) the costs of the inquiry and hearing into the nurse's conduct and related costs, including the expenses of the investigation committee and the discipline committee; or
 - (iii) both of the things mentioned in subclauses (i) and (ii); and
- (b) where a nurse fails to make payment in accordance with an order pursuant to clause (a), that the nurse be suspended from the association.

(3) The discipline committee shall send a copy of an order made pursuant to subsection (1) or (2) to the nurse who is the subject of the report and to the person, if any, who made the report.

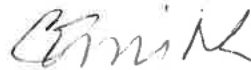
(4) Where a nurse is expelled or suspended from the association, the registrar shall strike the name of the nurse from the register or indicate the suspension on the register, as the case may be.

22. TAKE NOTICE THAT the Investigation Committee is recommending that the Discipline Committee order that you be suspended for 30 days from the association, that you take counseling and that you complete studies regarding the *Code of Ethics*, *The Registered Nurses Act* and the SRNA Standards and Competencies. There is also a recommendation that you pay a substantial fine and costs and that you be suspended until such time as payment is made.

G. GUILTY PLEA

23. AND FURTHER TAKE NOTICE THAT, if you decide to enter a guilty plea, you and your legal counsel must contact legal counsel for the Investigation Committee of the SRNA at the earliest opportunity in order to implement the procedure to speak to penalty.

Dated at Regina, Saskatchewan, this 5th day of November, 2019.



Cindy Smith, RN
Executive Director
Saskatchewan Registered Nurses Association