

NOTICE OF HEARING OF COMPLAINT

TO: SHARRON ANN McSTAY
[REDACTED]
[REDACTED]

A. JURISDICTION

1. At all times material to the charges set out below you were on the Register and were a member of the Saskatchewan Registered Nurses Association ("SRNA");
2. At the time of the incidences contained in the charges, your licence from the SRNA to practice registered nursing in Saskatchewan extended from December 1, 2017, and expired November 30, 2018, and thereafter your licence was not in effect during the time of some of these charges;
3. The Investigation Committee of the SRNA reviewed and investigated the complaint regarding your conduct and competence 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 charges stated below.

B. CHARGES

Charge Number 1

4. You, SHARRON ANN McSTAY, are alleged to be guilty of professional misconduct contrary to section 26 of *The Registered Nurses Act, 1988* and the SRNA bylaws 2018 regarding events that occurred on February 28, 2019.
 - (a) On that date, you ordered a urine analysis on a resident of [REDACTED]. At the time, you were not licensed as an RN.
 - (b) Further, commencing in April 2018, you were determined to be medically unfit to practice registered nursing by your physician and you continued to be unfit on February 28, 2019. You sent the order to the lab and M.K. received the lab results for a client at [REDACTED] personal care home, [REDACTED].
 - (c) Even if you had been licensed and fit to practice as an RN at the time, you would have been practising outside the scope of practice of a general category RN since ordering a urine analysis test falls within the scope of a nurse practitioner or physician.
 - (d) Further, when ordering the urine analysis, you misrepresented that it was nurse practitioner M.K. who was ordering it when in fact it was you. Through your actions you compromised the public's trust, you demonstrated disgraceful and dishonorable conduct that is contrary to the best interest of the public and harmed the standing of the profession of nursing.

Charge Number 2

5. You, SHARRON ANN McSTAY, are alleged to be guilty of professional misconduct contrary to section 26 of *The Registered Nurses Act, 1988* and the SRNA bylaws 2018 regarding events that occurred between December 1, 2018 and October 2019:
- (a) [REDACTED] the majority shareholder of [REDACTED].
 - (b) [REDACTED] website publicly advertised the service of "RN on call 24/7". You have admitted to being the RN referred to. [REDACTED] failed to take reasonable steps to remove that information on the website when your Practising Registered Nurse licence was not renewed on November 30, 2018.

Charge Number 3

6. You, SHARRON ANN McSTAY, are alleged to be guilty of professional misconduct contrary to section 26 of *The Registered Nurses Act, 1988* and the SRNA bylaws 2018 regarding events that occurred on November 30, 2018:
- (a) For the practice year December 1, 2017 to November 30, 2018, you reported 1,237 registered nurse practice hours when in fact you only had 442.5 hours. You failed to ensure the accuracy of the practice hours that you reported.

C. RELEVANT LEGISLATION AND BYLAWS

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

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:

- (c) inappropriately used the nurse's professional status for personal gain;
- (i) falsified a record with respect to the observation, rehabilitation or treatment of a client;
- (l) failed to comply with the code of ethics of the association;
- (p) obtained registration by misrepresentation or fraud;
- (q) contravened any provision of this Act or the bylaws.

8. The above alleged professional misconduct is contrary to the *Registered Nurses Practice Standards 2018* adopted at Bylaw XV, Section 1(2). The following standards are applicable in this case:
- (a) Standard 1 – Professional Responsibility and Accountability: 1, 3, 9

- (b) Standard 3 – Ethical Practice: 25, 27, 29 and 32;
 - (c) Standard 4 – Service to Public: 35, 37, 39 and 41a); and
 - (d) Standard 5 – Self-Regulation: 49, 51, 53 and 55.
9. The above alleged professional misconduct is contrary to the *Registered Nurses Entry-Level Competencies 2019* adopted at Bylaw XV, Section 1(2). The following competencies are applicable in this case:
- (a) Clinician: 1.1;
 - (b) Professional: 2.1, 2.2, 2.3, 2.7, 2.8, 2.9 and 2.10;
 - (c) Communicator: 3.1; and
 - (d) Collaborator: 4.3 and 4.4.
10. The above alleged professional misconduct is contrary to the *Code of Ethics for Registered Nurses, 2017* adopted at Bylaw XIV. The following nursing values and ethical responsibilities are applicable in this case:
- (a) A – Providing Safe, Compassionate, Competent and Ethical Care: 1, 5 and 7;
 - (b) D – Providing Health and Well-Being: 4;
 - (c) F – Promoting Justice: 4; and
 - (d) G – Being Accountable: 1, 2, 3, 4, 5 and 8.

D. PARTICULARS

11. (a) (Charges 1 – 3) [REDACTED] is a privately owned and operated personal care home located at [REDACTED] in Regina. [REDACTED] is owned by the [REDACTED], of which [REDACTED] the majority shareholder and a Director and the contact person for the business.
- (b) (Charge 1 & 3) In April 2018, while employed with the Saskatchewan Health Region in Regina you applied for and received disability benefits. You made a subsequent application to extend your disability benefits to the present, on the basis that you were mentally and emotionally unfit to practice as an RN.
- (c) (Charge 2) According to [REDACTED] business website, [REDACTED] charged clients \$3,000 to \$3,400 per month in part based on information listing that there is a “RN on call 24/7”. You admitted to being that RN even though you knew you were unfit to practice nursing at the time and after November 30, 2018 that you were not licensed to practice nursing.
- (d) (Charge 3) Regarding the reporting of registered nursing hours to the SRNA on November 30, 2018, you did not work 1,237 hours in a 4 ½ month period. You misrepresented sick leave hours as practice hours. You only worked as an RN 442.50 hours.

- (e) (Charge 1) Requesting a lab test without an order is practising outside the scope of practice of a registered nurse in the general category. Further, you were practising without a license at the time you ordered the urine analysis test.
- (f) (Charge 1) You misrepresented to the laboratory that it was M.K., a nurse practitioner who had ordered the urine analysis because you knew that even if you had been licensed at the time it was outside your scope of practice to order a urine analysis test for one of your clients.

E. DATE, TIME AND PLACE OF HEARING

- 12. 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 **9:00 o'clock** in the forenoon on **Tuesday, the 4th day of August, 2020**, in the Brunskill boardroom of the SRNA at 2066 Retallack Street, Regina, Saskatchewan, or such other location as may be advised, and from day to day thereafter until the charges have been heard.
- 13. TAKE NOTICE THAT at the said time and place you have the right to be present with counsel and a support person and that the hearing is open to the public.
- 14. 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 the charges and the evidence with respect to them.

F. DISCIPLINARY POWERS

- 15. 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.

G. GUILTY PLEA

16. AND FURTHER TAKE NOTICE THAT, if you decide to enter a guilty plea, you or 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 9th day of July, 2020.



Cindy Smith, RN, MN
Executive Director
Saskatchewan Registered Nurses Association