INVESTIGATION COMMITTEE
of the
SASKATCHEWAN REGISTERED NURSES ASSOCATION

-and-

Carol Ann Brander
Saskatchewan RN #0039317
, SASKATCHEWAN

PENALTY DECISION

of the

DISCIPLINE COMMITTEE

of the

SASKATCHEWAN REGISTERED NURSES ASSOCIATION

Legal Counsel for the Investigation Committee:	Roger Lepage
Legal Counsel for Carol Ann Brander	N/A
Legal Counsel for the Discipline Committee:	Darcia Schirr, Q.C.
Chairperson for the Discipline Committee:	Michell Jesse, RN
Reasons for the Discipline Committee:	Ambrosia Varaschin. Q.Arb ACIArb

Date of Penalty Hearing:	**August 12, 2021**
Location:	*Via Videoconference* Saskatchewan Registered Nurses Association 2066 Retallack Street Regina, Saskatchewan S4T 7X5
Date of Penalty Decision:	**October 26, 2021**

I. INTRODUCTION

1. The Discipline Committee of the Saskatchewan Registered Nurses Association (SRNA) convened to hear and determine a complaint of professional misconduct against Registered Nurse #0039317, Carol Ann Brander on August 12, 2021. The Discipline Committee is established pursuant to section 30 of *The Registered Nurses Act 1988 (The Act).*

2. The charges against Carol Ann Brander are outlined in a Notice of Hearing of Complaint dated June 1, 2020. There are two charges of professional misconduct and professional incompetence, which are as follows:

Charge Number 1

You, CAROL ANN BRANDER, are alleged to be guilty of professional incompetence contrary to section 25 of The Registered Nurses Act, 1988, regarding events that occurred between the dates of November 1, 2016 and August 1, 2019 as follows:

a) You were unable to practice independently as a Registered Nurse except for a short period of time despite three gradual return to work placements, with restrictions on your nursing practice;
b) You demonstrated consistent and repeated patterns of incompetence despite frequent education from clinical nurse educators, with no significant improvement following the said education;
c) You exhibited an inability to perform basic nursing skills thus causing significant safety and registered nursing practice concerns;
d) You displayed significant safety concerns related to the administration and documentation of medication, including narcotics;
e) You had an inability to prioritize registered nursing work and to carry out the entire registered nursing process;
f) You exhibited an inability to follow policy and procedures despite being required to read, sign and study the policies and procedures;
g) You frequently failed to follow basic infection control practices; and
h) Despite ongoing monitoring, coaching and education, there was no significant improvement in your competency. You failed to recognize the degree to which you lacked the knowledge, skill or judgement required. Your actions demonstrated that you were unfit to continue in the practice of registered nursing.

Charge Number 2

You, CAROL ANN BRANDER, are alleged to be guilty of professional misconduct and/or professional incompetence contrary to sections 25 and 26 of The Registered Nurses Act, 1988 regarding events that occurred between the dates of November 1, 2016 and September 6, 2019. You presented to work while under the influence of medication which impaired your cognition. You presented to work while in pain and fatigued thus impairing your cognition and ability to practice as a Registered Nurse. You failed to recognize that you were unfit to practice registered nursing and to remove yourself from working as an RN. You failed to advise your employer that you were unfit to practice registered nursing.

3. The Notice also sets out particulars for each charge, detailing the issues leading to investigation:

PARTICULARS

Particulars of the alleged professional incompetence and/or misconduct while employed at the [redacted] in Saskatoon are as follows:

(Charge #1) From November 1, 2016 to August 1, 2019, you experienced three failed gradual return to work programs. During each of your return to work programs, staff reported significant nursing deficiencies. You were noted to rely heavily on the support of others, avoid unfamiliar nursing situations and had to ask many questions. While on the gradual return to work programs, you remained supernumerary and thus given all opportunities to observe and learn before gradually taking on registered nursing responsibilities. You were observed to regularly function at a level of a continuing care aid. You consistently practiced below the level of a graduate Registered Nurse.

(Charge #1) From November 1, 2016 to August 1, 2019, there was numerous documentation about specific acts and observations of registered nursing incompetence. You regularly demonstrated lack of knowledge, skill or judgement as a Registered Nurse while being under direct supervision of another Registered Nurse. Extensive policy and procedure reviews were conducted along with return demonstration opportunities. Two clinical nurse educators and registered nursing staff were required to regularly intervene in your practice to ensure patient safety, all of which has been documented.

(Charge #1) From November 1, 2016 to August 1, 2019, you admitted to regularly not taking the Medication Administration Record ("MAR") into patient rooms. You admitted to regularly only checking a patient's armband and on occasion, verbally confirming the patient's identity. You admitted to not routinely seeking out an independent double check for narcotic administration. You admitted to not accessing the policy and procedure manuals when faced with questions surrounding medication administration, the use of IV pumps, or nursing procedures.

(Charge #1) On March 20, 2017, you were asked by two clinical nurse educators and management to complete a Surgical Services Self-Assessment Tool. You completed this tool and identified several areas of required improvement. You were provided with all updated unit policies and supplemental teaching. You indicated in the majority of the categories that you had either knowledge, competence and/or independence with basic registered nursing skills. You did not accurately reflect your lack of competence when completing this tool.

(Charge #1) In April 2017, you completed a Surgical Services Learning Plan with your clinical nurse educators, based on the areas you indicated required review in your Self-Assessment Tool. You did not successfully meet multiple skills after remediation review and being given the policies. The clinical nurse educators noted repeated areas of ongoing competency concern in their written evaluations of your performance.

(Charge #1) From April 1, 2017 to July 30, 2017, you demonstrated ongoing issues with basic registered nursing skills such as hand hygiene, sterile technique, oxygen application and the use of suction. You displayed difficulties with skills such as nasal gastric tubes, catheterization, PICC Lines, VAC dressings, and clean and sterile dressing changes.

(Charge #1) On July 20, 2017, you were given a letter of expectation from your employer. You did not complete your learning plan from April 2017. During subsequent conversations with your employer, you admitted to not remaining current with your policies and procedures and you had not read all of the policies provided by your employer.

(Charge #1) On August 1, 2017, you participated in an Independent Competency Assessment Observation (ICAO) shift. This assessment was conducted by a third party Registered Nurse not familiar with you or [redacted] You continued to struggle during the assessment. Multiple areas of concern were documented. Subsequently, you received a letter of clarification reiterating the employer's concerns regarding your registered nursing competence.

(Charge #1) On August 31, 2017, concerns were brought forward about your inability to administer blood products. You administered packed red blood cells with Lactated Ringers and not Normal Saline as per the employer's policy. You made multiple errors during the administration of the blood product and did not consult the policy and procedure manual. Patient safety was compromised. Shortly after this incident, you went on medical leave.

(Charge #1) In the spring of 2018, you returned to work for a second gradual return to work. You remained on supernumerary status thus providing you with direct supervision and a learning opportunity and your learning plan was reactivated. The employer documented significant gaps in meeting the expectations of a competent Registered Nurse. In June of 2018, you were provided another letter of expectation. In the summer of 2018, you left on another medical leave.

(Charge #1) In May of 2019, you attempted a third gradual return to work. You remained supernumerary and thus benefitted from direct supervision of another RN and learning opportunities. You continued to exhibit a lack of registered nursing competence. On May 23, 2019, two clinical nursing educators conducted an Objective Structured Clinical Examination (OSCE) to assess your registered nursing performance. They documented significant areas of concern regarding lack of knowledge, skill or judgment and an inability to perform basic registered nursing functions and to properly administer medications. Remediation was provided and yet you continued to not meet the required competencies.

(Charge #1) On July 3 and July 5, 2019, a second and third Independent Competency Assessment Observation (ICAO) were conducted of your practice. A different assessor performed the ICAO on those two days. Again, significant registered nursing practice competency concerns were brought forward and documented. As a result, you were placed on paid leave.

(Charge #1) On July 29 and 30, 2019, after you applied to be transferred from the surgical unit to long-term care, you participated in two shadow shifts at a long-term care facility in Saskatoon. You continued your gradual return to work program at You began your orientation shifts at on August 7, 2019. You are currently on sick leave.

(Charge #2) You admitted to having some difficulty since your return to work in 2016. You indicated that you believed this struggle is in large part due to your ongoing medication requirements for leading to an inability to sleep well, fatigue and exhaustion. You admitted that these medications impaired your cognitive ability. Documentation provided by your physician supported that the prescription medication could cause cognitive impairment. You failed to recognize that as a Registered Nurse, you have a duty to remove yourself from working as an RN and to advise your employer when you are unfit. You continued to present to work and perform patient care when you were unsafe to do so.

4. The Notice alleges that Carol Ann Brander is guilty of professional misconduct and/or professional incompetence contrary to section 25 and subsections 26(1) and (2) of *The Act*. The relevant provisions are as follows:

> *25 For the purposes of this Act, professional incompetence is a question of fact, but the display by a nurse in the professional care of a client of a lack of knowledge, skill or judgment or a disregard for the welfare of a client of a nature or to an extent that demonstrates that the nurse is unfit:*
>
> *(a) to continue in the practice of registered nursing; or*
>
> *(b) to provide one or more services ordinarily provided as part of the practice of registered nursing;*
>
> *is professional incompetence within the meaning of this Act.*

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.

26(2) Without restricting the generality of subsection (1), the discipline committee may find a nurse guilty of professional misconduct if the nurse has:

(j) failed to inform an employer of the nurse's inability to accept specific responsibility in areas where special training is required or where the nurse does not feel competent to function without supervision;

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

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

II. THE HEARING

6. When the Discipline Hearing began on August 12, 2021, neither counsel for Ms. Brander nor Carol Ann Brander herself were present for the Hearing. Counsel for the Investigation Committee informed the Discipline Committee that on more than one occasion, counsel had initiated contact with Ms. Brander, and on each of these interactions she indicated that she would not be attending the hearing. Counsel advised Ms. Brander that if she did not attend, the Investigation Committee would ask the Discipline Committee for leave to proceed with the hearing in her absence.

7. This hearing was originally scheduled to commence on August 20, 2020, in Saskatoon. However, Ms. Brander was so afflicted by [redacted] that she was unable to participate; as such, the hearing was adjourned indefinitely awaiting medical clearance for Ms. Brander's attendance.

8. Counsel for the Investigation Committee did not serve Ms. Brander with a second Notice of Hearing for this rescheduled hearing date, which would have been best practice. However, counsel tendered two separate email chains, entered as Exhibits P1 and P2, which indicated her knowledge of the rescheduled hearing and reiterated her desire for the hearing to be conducted *ex parte*. On June 30, 2021 [redacted], hearing coordinator with the SRNA, sent Ms. Brander an email informing her that this hearing had been scheduled for August 12, 2021. On August 6, 2021, Ms. Brander emailed Mr. Roger Lepage, counsel for the Investigation Committee, asking "can you tell me why I have received notification of an upcoming hearing on August 12th?", to which Mr. Lepage

responded with an explanation of the procedure and asking if she had decided to participate. No response from Ms. Brander was received to either or Mr. Lepage's emails.

9. At the outset of the hearing, counsel for the Investigation Committee referred to a Notice of Guilty Plea, as part of Exhibit P3, dated June 24, 2021 and signed by Ms. Brander which indicated that Ms. Brander:

    a. received the Notice of Hearing of Complaint dated June 1, 2020;

    b. was pleading guilty to both charges of professional incompetence; and

    c. that she would not be participating in either the pre-hearing conference, nor the discipline hearing.

10. Counsel for the Investigation Committee tendered proof of service of the Notice of Hearing showing that Ms. Brander was served on June 9, 2020 for the original hearing date, as well as several documents as evidence that Ms. Brander was aware that a discipline proceeding was occurring against her, also part of Exhibit P3:

    a. Notice of Hearing dated June 8, 2020; and

    b. Affidavit of Personal Service by dated June 11, 2020; and

    c. Voluntary Non-Practice Agreement dated July 21, 2020 and signed by Ms. Brander as a requirement to postpone the original hearing date, pending the conclusion of a discipline hearing.

11. The Discipline Committee discussed the evidence presented *in camera* and determined that sufficient proof existed to conclude that Ms. Brander was aware of the rescheduled hearing, and had made the choice not to attend. As such, the hearing proceeded in Ms Brander's absence pursuant to section 30(9) of *the Act*.

12. Counsel indicated that throughout his communications, Ms. Brander was clear that her intention was to resign from the SRNA, but no mechanism in the bylaws or *the Act* allowed that specific action, and she therefore planned to retire on her 65th birthday. He detailed how Ms. Brander had no intention of practicing while unfit, however due to her cognitive impairment from medication and , she was unable to recognize her incompetence and recuse herself. Ms.

Brander has repeatedly expressed her intentions to counsel to never return to the practice of registered nursing due to her health.

13. On July 21, 2020, Ms. Brander signed a Voluntary Non-Practice Agreement. She has been on long-term disability since 2018 for her injury, which terminated , when she reached age 65. She has apparently indicated to the Investigation Committee counsel that she has no intentions to return to practice due to her physical and mental health issues and considers herself retired from the SRNA. Further, the material and the submissions from counsel indicated that as November 30, 2020, Ms. Brander's registration status became "inactive," and as such, she is currently considered a "former nurse", as defined by *the Act:*

    Interpretation re discipline provisions

    24.1(1) In sections 24.2 to 38, "nurse" includes a former nurse.

    (2) In this section and section 24.2, "former nurse" means a nurse whose registration has been suspended or expelled.

14. Consequently, the Discipline Committee must ensure that these proceedings are within the statutory limitations of two years since becoming a "former nurse":

    Proceedings against former nurses

    24.2(1) No proceedings conducted pursuant to this Act shall be commenced against a former nurse more than two years after the day he or she became a former nurse.

    (2) For the purposes of this section, a proceeding is commenced when the investigation committee, pursuant to subsection 28(1), is in receipt of a report, in writing, of any person alleging that a nurse is guilty of professional incompetence or professional misconduct.

    As the SRNA received a formal letter of complaint against Ms. Brander from the Saskatchewan Health Authority on June 28, 2019, before she became ineligible for a license, and well before her non-practice agreement and her subsequent "inactive" status, these proceedings are well within the time limits imposed by *the Act.*

15. As Ms. Brander was not in attendance, pled guilty to both charges, and signed an Agreed Statement of Facts, no witnesses were called, and no other affidavits or documents were presented. Counsel for the Investigation Committee summarized the Agreed Statement of Facts and the Joint Proposal for Discipline.

III. SUMMARY OF EVIDENCE

16. An Agreed Statement of Facts was filed with the Discipline Committee as part of Exhibit P3, which sets out additional detail to the facts and particulars listed in the Notice of Hearing. Ms. Brander completed her nursing education at the University of Winchester, United Kingdom on October 5, 2005. She was originally registered with the SRNA as a Graduate Nurse from January 5, 2008 through January 12, 2010 before being obtaining her license as a Registered Nurse on March 12, 2010.

17. Ms. Brander was injured at work when a patient fell on her in the winter of 2009-2010; Instead of immediately filing a claim with WCB she attempted to work through her injury. When she finally submitted a claim to WCB . Her condition failed to improve despite continuing , so Ms. Brander requested WCB reopen her claim, but was denied due to time limits. Her physicians have indicated that she has a permanent injury that prevents her from returning to work as a Registered Nurse in the position she occupied in the surgical unit.

18. From the period commencing November 1st, 2016 through August 1st, 2019, Ms. Brander failed three gradual return-to-work programs due to significant nursing deficiencies, including regularly demonstrating a lack of knowledge, skill, and judgment that is required of a Registered Nurse. Extensive policy and procedure reviews were conducted as well as demonstration opportunities, and yet, two clinical nurse educators and registered nursing staff were required to regularly intervene in her practice to ensure patient safety. Ms. Brander admitted to routinely forgetting to take the Medication Administration Record (MAR) into patient rooms and relying on patient arm bands to confirm patient identities without verbal confirmation. She failed to access policy and procedure manuals when unsure of medication administration, the use of IV pumps, or other nursing procedures, as well as routinely obtaining an independent double-check for narcotics administration. Despite being given opportunities to observe and learn before easing into registered nursing responsibilities, Ms. Brander continued to regularly function at the level of a continuing care aide, well below the level of a graduate Registered Nurse let alone a Registered Nurse.

19. On March 20, 2017, Ms. Brander was on her first return-to-work program on the surgical unit at [redacted] and was asked to complete a Surgical Services Self-Assessment Tool. Ms. Brander completed this tool and identified several areas requiring improvement; she was provided with all updated unit policies and supplemental teaching for these areas. Despite her struggles with competency in her daily tasks, Ms. Brander indicated that she had knowledge, competence, or independence with basic registered nursing skills in the majority of the assessment categories—clearly demonstrating a failure to acknowledge her skill level and indicating a lack of self-awareness. In April 2017, Ms. Brander completed her Surgical Services Learning Plan with two clinical nurse educators based on the areas she indicated required improvement. After remediation review, she did not successfully demonstrate multiple skills and the clinical nurse educators noted repeated areas of ongoing concern in their written evaluation.

20. From April 1st through July 30th, 2017, Ms. Brander continued to demonstrate ongoing issues with basic nursing skills including hand hygiene, sterile techniques, proper dressing changes, oxygen application, and the use of suction. She also displayed difficulties with nasal gastric tubes, catheterization, PICC lines, and VAC dressings.

21. Ms. Brander failed to complete the April learning plan, and as such, was given a Letter of Expectation from her employer on July 20, 2017. In subsequent conversations with her employer, Ms. Brander admitted she had not read all the policies her employer had provided her that spring.

22. On August 1, 2017, Ms. Brander participated in an Independent Competency Assessment Observation (ICAO) conducted by a third-party Registered Nurse unfamiliar with both Ms. Brander and the surgical units she worked in. She failed to demonstrate nursing competency during the assessment, with multiple areas of concern documented. As a result, she received a Letter of Clarification from her employer reiterating the concerns from her Letter of Expectation.

23. On August 31, 2017, a complaint was brought to her employer about Ms. Brander's competency to administer blood products when she administered blood packed products instead of normal saline, as was standard policy. Ms. Brander's failure to consult the policy and procedure manual in the face of uncertainty resulted in an administration error that jeopardized patient safety. Following this incident, she went on medical leave.

24. In the spring of 2018, Ms. Brander began a second return-to-work program on supernumerary status which kept her under direct supervision while her learning plan was completed. Her performance continued to drastically fail the requirements of a competent Registered Nurse and in June she was provided another Letter of Expectation. Ms. Brander subsequently went on medical leave again.

25. A third return-to-work program was attempted by Ms. Brander in May, 2019, again under direct supervision as supernumerary status. On May 23, two clinical nursing educators conducted an Objective, Structured Clinical Examination (OSCE) to assess her registered nursing performance—they documented significant areas of concern regarding her lack of knowledge, skill, and judgement as well as an inability to perform basic registered nursing functions including the administration of medication. Skills remediation was provided, but Ms. Brander continued to fail expected competency levels.

26. On July 3 and 5, 2019, Ms. Brander underwent her second and third ICAO assessments by two separate independent Registered Nurses. During both assessments she demonstrated significant issues in nursing competency and was placed on paid leave as a result.

27. At the end of July, 2019, Ms. Brander applied to be transferred from the surgical unit at to long-term care and she continued her return-to-work program at , where she completed a total of nine shifts before returning to medical leave.

28. , and was placed on pain medications which caused her to experience cognitive difficulties, fatigue, and stress. Her prescribing physician has provided documentation supporting her claim of medicine induced cognitive impairment, and she maintains that she did not willfully practice while unfit as she was not aware of her diminished faculties at the time.

29. and has been receiving treatment on a regular basis until the COVID-19 pandemic. She intends to resume her sessions with him once his practice recommences in-person treatment.

30. From December 1, 2013 through 2021, Carol Ann Brander has worked 1,510.79 hours as a Registered Nurse. She did not work at all from December 1, 2014 through November 30, 2015, completed 180 hours from December 1 2015 through November 30 2016, and worked a total of

641.91 hours from December 1, 2016 through November 30, 2017. From December 1, 2016 to present Ms. Brander has worked 794 hours as a Registered Nurse, far short of the minimum 1,125 hours of registered nursing practice required to maintain her license, as per Bylaw V Section 3(1). Ms. Brander became ineligible for her registered nursing license on December 1, 2019 due to insufficient practice hours.

IV. ANALYSIS

31. It is clear from the evidence presented that Ms. Brander did not intend to practice while unfit to do so, but was unable to recognize her own incompetence due the combined effects . Now that she fully comprehends her nursing abilities, Ms. Brander has opted to permanently remove herself from nursing, as her health has not improved. The Discipline Committee must evaluate the facts of the case within the context of physical and mental disability, and a nurse's professional obligations to withdraw from practice when unfit to nurse safely.

32. While the Discipline Committee must acknowledge that Ms. Brander's incompetence is the fallout of a longstanding work injury, the *CNA Code of Ethics, 2017* does require nurses to maintain their fitness to practice:

> ***Part 1 (G - Being Accountable)***
>
> *5. Nurses maintain their fitness to practise. If they are aware that they do not have the necessary physical, mental or emotional capacity to practise safely and competently, they withdraw from the provision of care after consulting with their employer. If they are self-employed, they arrange for someone else to attend to their clients' health-care needs. Nurses then take the necessary steps to regain their fitness to practise, in consultation with appropriate professional resources.*

As a Registered Nurse, Ms. Brander should have been aware of the potential cognitive side effects of the medication prescribed to her for her pain, and she should have had the foresight to inform her employer and supervisors of the possibility of these impacts on her practice. By failing to create a plan of action before she began experiencing the effects of her medication, Ms. Brander failed to meet the ethical requirements of "being accountable".

33. As this Discipline Committee has encountered repeatedly in the past year, a Registered Nurse is once again subject to sanction due to the effects of a disability via the same process a colleague who willfully or negligently fails to uphold the standard of registered nursing practice. As it stands, *the*

Act fails to include a separate provision for addressing fitness to practice issues due to disability. Historically such matters have been dealt with under sections 25 or 26 of *the Act* as professional incompetence or professional misconduct. The SRNA is encouraged to examine its processes to allow for resignation as opposed to discipline where the underlying cause of conduct issues is a disability.

34. Unlike the Saskatchewan Association of Licensed Practical Nurses (SALPN), the SRNA bylaws do not include an option for a Registered Nurse to resign for medical reasons. Instead, the SRNA provides the option for a membership to lapse into "inactive" status, or for a nurse to apply for retired status. SALPN's bylaw, which essentially provides for a medical leave of absence from licensed practice, may be of direct and significant benefit to a case such as this one:

> ***Resignation on medical or other grounds***
> *8.1(1) The council may, on the recommendation of the registrar, accept the resignation of a licensed practical nurse who wishes to resign his or her membership in SALPN for medical or other reasons acceptable to the council.*
> *(2) Where the resignation of a member is accepted by the council, the registrar shall note in the register the reasons for which the member has resigned, and that notation shall be provided to any person who inquires as to the former member's membership status.*
> *(3) A member whose resignation is accepted by the council may apply to be reinstated as a member and shall, in addition to meeting all other requirements for registration as a member pursuant to the Act and the bylaws, demonstrate to the satisfaction of the council that the reasons that resulted in his or her resignation from SALPN no longer exist.*

Given the extended period of time Ms. Brander was on long-term disability for her injury, and her current desire to retire from nursing all-together for her health, it would be likely she would have entertained such an option before matters had escalated to the point of a discipline hearing—saving the nurse significant stress and the Association the costs of an investigation and a discipline hearing. Indeed, she specifically inquired about the option to resign when the investigation into her practice began.

V. GUILTY PLEAS & JOINT SUBMISSION

35. Ms. Brander has voluntarily pled guilty to both charges of professional incompetence and misconduct. Based on the Statement of Agreed Facts and evidence submitted alongside the details of the two charges, the Discipline Committee accepts both the charges and those pleas.

36. Counsel for the Investigation Committee also submitted a Joint Proposal for Discipline, dated June 24, 2021 and signed by Ms. Brander. This was included as part of Exhibit P3 and proposes the following disciplinary measures:

    a. suspension from the SRNA until such time as she successfully completes a nursing re-entry program, should she choose to return to nursing; and

    b. costs in the amount of $5,000 to be paid on or before July 1, 2026.

37. The Discipline Committee is aware of the legal principles of joint submissions. In *Rault v Law Society of Saskatchewan, 2009 SKCA 81*, the Saskatchewan Court of Appeal stated that discipline committees have a "duty to consider" joint submissions and to accept a joint submission if it is within a range of reasonable outcomes, fit and consistent with the public interest. The Supreme Court of Canada further supports this principle in *R v Anthony-Cook, 2016 SCC 43* where they indicate that joint submissions should be adhered to "unless the proposed sentence would bring the administration of justice into disrepute or was otherwise contrary to the public interest". Given the facts of the case, the context of disability versus public safety, and the nurse's desires, the Discipline Committee finds no reason to deviate from the proposed sanction.

VI. DECISION

38. The Discipline Committee makes the following Order pursuant to section 31 of the Act:

    1. Pursuant to section 31(1)(b) of *The Registered Nurses Act, 1988* Ms. Brander shall be suspended and shall remain suspended from the SRNA until she successfully completes a nursing re-entry program approved by the SRNA, at her cost. Proof of successful completion shall be provided to the Registrar.
    2. Pursuant to section 31(2)(a)(ii) of *The Registered Nurses Act, 1988* Ms. Brander shall pay costs of $5,000.00 on or before July 1, 2026. In the event that Ms. Brander holds a licence on July 1, 2026 and payment has not been made, Ms. Brander shall remain suspended from the SRNA pursuant to section 31(2)(b) of *The Registered Nurses Act, 1988* until such time as payment is made in full.

39. A copy of this decision shall be forwarded to:

    a. the editor of the SRNA news bulletin and the administrator for the SRNA website;

b. all Canadian Registrars of Registered Nurses;

c. Saskatchewan Association of Licensed Practical Nurses;

d. Registered Psychiatric Nurses Association of Saskatchewan;

e. The College of Physicians and Surgeons of Saskatchewan; and

f. any other jurisdictions or other stakeholders as may be seen as appropriate by the Registrar.

November 22, 2021

Michell A Jesse RN

Michell Jesse, Chairperson
On behalf of Members of the Discipline Committee
Stella Swertz, RN
Janna Balkwill, RN
Leah Clement, RN
Ambrosia Varaschin, Public Representative, Writer

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

I. Relevant Provisions of the *Code of Ethics for Registered Nurses, 2008*

A. Providing Safe, Compassionate, Competent and Ethical Care

Nurses provide safe, compassionate, competent and ethical care.

Ethical responsibilities:

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**.

4. Nurses question and intervene to address unsafe, non-compassionate, unethical or incompetent practice or conditions that interfere with their ability to provide safe, compassionate, competent and ethical care to those to whom they are providing care, and they support those who do the same. See Appendix D.

5.Nurses admit mistakes[1] and take all necessary actions to prevent or minimize harm arising from an **adverse event**. They work with others to reduce the potential for future risks and preventable harms. See Appendix D.

B. Promoting Health and Well-Being

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

Ethical responsibilities:

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

G. Being Accountable

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

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[1] Provincial and territorial legislation and nursing practice standards may include further direction regarding requirements for disclosure and reporting.

Ethical responsibilities:

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.

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

4. Nurses maintain their **fitness to practise**. If they are aware that they do not have the necessary physical, mental or emotional capacity to practise 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 practise.

5. Nurses are attentive to signs that a colleague is unable, for whatever reason, to perform his or her duties. In such a case, nurses will take the necessary steps to protect the safety of persons receiving care. See Appendix D.

II. Relevant Provisions of the *Code of Ethics for Registered Nurses, 2017*

A. Providing Safe, Compassionate, Competent and Ethical Care

Nurses provide safe, compassionate, competent and ethical care.

Ethical responsibilities:

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 and other members of the health-care team.

4. Nurses question, intervene, report and address unsafe, non-compassionate, unethical or incompetent practice or conditions that interfere with their ability to provide safe, compassionate, competent and ethical care; and they support those who do the same (see Appendix B).

5. Nurses are honest[2] and take all necessary actions to prevent or minimize patient safety incidents. They learn from near misses and work with others to reduce the potential for future risks and preventable harms (see Appendix B).

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[2] Provincial and territorial legislation and nursing practice standards may include further direction regarding requirements for disclosure and reporting.

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

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

B. Promoting Health and Well-Being

Nurses work with persons who have health-care needs or are receiving care to enable them to attain their highest possible level of health and well-being.

Ethical responsibilities:

4. Nurses collaborate with other health-care providers and others to maximize health benefits to persons receiving care and with health-care needs and concerns, recognizing and respecting the knowledge, skills and perspectives of all.

D. Honoring Dignity

Nurses recognize and respect the intrinsic worth of each person.

Ethical Responsibilities:

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

14. Nurses foster a moral community in which ethical values and challenges can be openly discussed and supported.

G. Being Accountable

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

Ethical responsibilities:

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

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

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

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

III. Relevant Provisions of the *Standards and Foundation Competencies for the Practice of Registered Nurses, 2013*

STANDARD 1 – PROFESSIONAL REPONSIBILITY AND ACCOUNTABILITY

The Registered Nurse consistently demonstrates professional conduct and competence while practicing in accordance with the SRNA standards for registered nursing practice and CNA's Code of Ethics for Registered Nurses. Further, the Registered Nurse demonstrates that the primary duty is to the client to ensure safe, competent, ethical registered nursing care.

Foundation Competencies

The Registered Nurse:

1. Is accountable and accepts responsibility for own actions and decisions.

3. Recognizes the Registered Nurse scope of practice and individual competence limitations within the practice setting and seeks guidance as necessary.

6. Displays initiative, confidence, self-awareness, and encourages collaborative interactions within the nursing and health care team, with the client as the centre of the health care team.

10. Demonstrates critical inquiry in relation to new knowledge and technologies that change, enhance or support registered nursing practice.

15. Reports unsafe practice or professional misconduct of a health care worker to appropriate authorities.

16. Identifies, reports, and takes action on actual and potential unsafe practices or situations that have risk to clients, health care team members and/or others.

18. In accordance with agency policy and legislation, and in a timely manner; recognizes and reports near misses and errors (own and others), adverse events and critical incidents, and takes action to stop and minimize harm.

19. Utilizes a systems approach to patient safety, participates with others in the prevention of near misses, errors and adverse events.

21. Exercises professional judgment when using agency policies and procedures, or when practicing in the absence of agency policies and procedures.

23. Organizes workload and develops time-management skills for meeting responsibilities.

24. Fulfills the requirements of the SRNA Continuing Competence Program.

STANDARD II – KNOWLEDGE-BASED PRACTICE

This standard has two sections: Specialized Body of Knowledge and Competent Application of Knowledge.

II.1. Specialized Body of Knowledge

Specialized Body of Knowledge: The Registered Nurse draws on diverse sources of knowledge and ways of knowing, which includes the integration of nursing knowledge from the sciences, humanities, research, ethics, spirituality, relational practice, critical inquiry and the principles of primary health care.

Foundation Competencies

The Registered Nurse:

26. Applies a knowledge base from nursing and other disciplines in the practice of registered nursing.

28. Proactively seeks new information and knowledge and utilizes best practice in the provision of registered nursing care.

29. Applies knowledge from nursing and other disciplines concerning current and emerging health care issues.

II.2. Competent Application of Knowledge

Competent Application of Knowledge: The Registered Nurse demonstrates competence in the provision of registered nursing care. The competency statements in this section apply to the four components of registered nursing care; Assessment, Health Care Planning, Providing Care, and Evaluation. The provision of registered nursing care is an iterative process of critical inquiry and is not linear in nature.

Area i) Ongoing holistic assessment.

The Registered Nurse incorporates critical inquiry and therapeutic interpersonal skills to conduct an organized and comprehensive assessment that emphasizes client input and the determinants of health.

Foundation Competencies

The Registered Nurse:

33. Uses appropriate assessment tools and techniques in consultation with clients and other health care team members.

36. Collects information on client status using assessment skills such as observation, interview, history taking, interpretation of data, and in direct care environments, physical assessment including inspection, palpation, auscultation and percussion.

38. Analyzes and interprets data obtained in client assessments.

39. Documents assessment data in accordance with evidence-informed practice.

40. Uses existing health and nursing information systems to manage nursing and health care data during client care.

Area ii) Collaborates with clients and families to develop plans of care.

The Registered Nurse plans registered nursing care appropriate for clients which integrates knowledge from nursing, health sciences and other related disciplines as well as knowledge from practice experiences; clients' knowledge and preferences; and factors within the health care setting.

Foundation Competencies

The Registered Nurse:

41. Uses a critical inquiry process to support professional judgment and decision-making to develop plans of care.

45. Anticipates potential health problems or issues for clients and their consequences and initiates appropriate planning.

Area iii) Provides registered nursing care.

The Registered Nurse provides holistic individualized registered nursing care for clients and families across the lifespan along the continuum of care.

Foundation Competencies

The Registered Nurse:

49. Provides registered nursing care that is based on evidence-informed practice relevant to primary health care, health and healing.

52. Coordinates and provides timely registered nursing care for clients with co-morbidities, complex and rapidly changing health status.

Area iv) Ongoing evaluation of client care.

The Registered Nurse collaborates with clients, families and members of the health care team while conducting an ongoing comprehensive evaluation to inform current and future care planning.

Foundation Competencies

The Registered Nurse:

58. Employs a critical inquiry process to monitor the effectiveness of client care.

60. Reports and documents client care and its ongoing evaluation clearly, concisely and accurately.

STANDARD III – ETHICAL PRACTICE

The Registered Nurse demonstrates competence in professional judgment and practice decisions by applying the principles in the current CNA Code of Ethics for Registered Nurses. The Registered Nurse engages in critical inquiry to inform clinical decision-making, establishes therapeutic, caring, and culturally safe relationships with clients and the health care team.

Foundation Competencies

The Registered Nurse:

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

STANDARD IV – SERVICE TO THE PUBLIC

The Registered Nurse protects the public by providing and improving health care services in collaboration with clients, other members of the health care team, stakeholders, and policy makers.

Foundation Competencies

The Registered Nurse:

72. Articulates the authority and scope of practice of the Registered Nurse.

76. Participates and contributes to registered nursing and health care team development by:

e. knowing the scope of practice of team members;

f. using appropriate channels of communication;

g. providing and encouraging constructive feedback;

STANDARD V – SELF-REGULATION

The Registered Nurse demonstrates an understanding of professional self-regulation by advocating in the public interest, developing and enhancing own competence, and ensuring safe practice.

Foundation Competencies

The Registered Nurse:

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