

INVESTIGATION COMMITTEE
of the
COLLEGE OF REGISTERED NURSES OF SASKATCHEWAN

-and-

Warren Koch
Saskatchewan RN 0041280

DECISION

of the

DISCIPLINE COMMITTEE

of the

COLLEGE OF REGISTERED NURSES OF SASKATCHEWAN

Legal Counsel for the Investigation Committee:	Lynsey Gaudin
Legal Counsel for Warren Koch:	None
Legal Counsel for the Discipline Committee:	Brittnee Holliday
Chairperson for the Discipline Committee:	Chris Etcheverry

Date of Hearing: **November 4, 2025**

Location: *Via Videoconference*
College of Registered Nurses of Saskatchewan
1-3710 Eastgate Drive
Regina, Saskatchewan
S4Z 1A5

Date of Decision: **January 27, 2026**

I. INTRODUCTION/PROCEDURAL HISTORY

1. On August 5, 2025, a Notice of Hearing was issued to Warren Koch concerning charges of professional incompetence and/or professional misconduct (“Charges”) pursuant to *The Registered Nurses Act, 1988* (the “Act”). The Notice of Hearing indicated that the Hearing into these charges would occur on November 4 and 5, 2025.

2. During a Case Management Conference on September 15, 2025, it was identified that Warren Koch had raised issues related to procedural fairness (“Procedural Fairness Issues”). A further Case Management Conference was scheduled for October 16, 2025. On October 15, 2025, the Investigation Committee sought leave to provide evidence by way of Affidavit (the “Affidavit Application”) and asked that the Discipline Committee use the November 4 and 5, 2025 Hearing dates to address all preliminary issues/Applications raised by Warren Koch and the Investigation Committee. The Investigation Committee’s October 15, 2025 letter was filed by counsel for the Investigation Committee.

3. After considering the positions of Warren Koch and the Investigation Committee, the Discipline Committee issued an Order, dated October 23, 2025, and later amended November 6, 2025 (the “October Order”) to correct a typographical error, determining that the November 4 and 5 dates would not proceed on the Charges as outlined in the Notice of Hearing and that November 4 and 5, 2025 would be set aside to hear argument on the Procedural Fairness Issues, the Affidavit Application, and any additional preliminary issues by either party only.

4. The Discipline Committee also ordered that Warren Koch articulate, in writing, the Procedural Fairness Issues and to provide any documents he intended to rely on by no later than 12:00 p.m. on October 31, 2025. Warren Koch was also provided an opportunity to respond to the Investigation Committee’s Affidavit Application by the same deadline. The same deadline was also used to identify any additional preliminary issues. Warren Koch was provided with a copy of the October Order of the Discipline Committee.

5. No written submissions or materials were filed by Warren Koch and no additional preliminary issues were identified by either party.

6. The Discipline Committee convened on November 4, 2025 to hear oral argument regarding the Investigation Committee's Affidavit Application and to inquire about the status of Warren Koch's Procedural Fairness Issue. As a result of the oral submissions, the Discipline Committee issued a further Order, dated November 5, 2025 (the "November Order"), setting out timelines by which the parties were to file written submissions and any documentation regarding the Procedural Fairness Issue and the Affidavit Application.

7. The Discipline Committee received the following from the Investigation Committee:

- (a) Affidavit of Cheryl Hamilton, sworn November 18, 2025;
- (b) Brief of Law on behalf of the Investigation Committee, dated November 19, 2025;
and
- (c) Book of Authorities on behalf of the Investigation Committee.

8. The Discipline Committee received the following from Warren Koch:

- (a) Email from Warren Koch, dated December 2, 2025

9. What follows is the Discipline Committee's decision related to the Affidavit Application and the Procedural Fairness Issues.

II. AFFIDAVIT APPLICATION DISCUSSION AND ANALYSIS

10. The Investigation Committee seeks to have its witnesses provide evidence by way of Affidavit, relying on section 30(4) of the Act which provides that a Discipline Committee "may accept any evidence it considers appropriate and is not bound by rules of law concerning evidence". The Investigation Committee confirmed all witnesses would be available for cross-examination by Warren Koch and should the Discipline Committee have questions for the witnesses.

11. Counsel for the Investigation Committee identified that the primary reason for the Affidavit Application is for efficiency of process, noting the Investigation Committee has several witnesses testifying to conduct over multiple days and who will speak to mainly existing documentary records. The Brief of Law on behalf of the Investigation Committee (“Brief of Law”) notes the following efficiencies:

- (a) these witnesses would not have to testify to their examination-in-chief, thereby reducing the amount of time they are testifying;
- (b) these witnesses could authenticate and confirm documents by way of Affidavit rather than each individually testifying to various documents; and
- (c) it would reduce the amount of time these witnesses are on the stand, which would reduce the number of days needed for the Hearing and balance costs for all participants in this process.

12. It was also noted that allowing evidence by way of Affidavit would further streamline the Hearing by allowing Warren Koch to analyze the evidence in advance of the Hearing to determine which witnesses he would like to cross-examine and properly prepare for the same.

13. The Brief of Law notes the considerable discretion granted to the Discipline Committee by virtue of section 30(4) of the Act, as outlined in *Sautner v Saskatchewan Teachers Federation*¹. The Investigation Committee notes that the discretion of a Discipline Committee to accept evidence it considers appropriate is not unlimited and all parties must have the full right to cross-examine witnesses,² as is required in section 30(7) of the Act. Section 30(7) of the Act provides for the “full right to cross-examine ... all witnesses”.

14. The Investigation Committee states that the Discipline Committee has the discretion to accept Affidavit evidence in place of oral testimony provided the right of cross-examination is upheld. In response to the Discipline Committee’s inquiry regarding the interplay between the discretion to accept any evidence it considers appropriate in section 30(4) of the Act and the specific statutory direction in section 30(10) of the Act that allows the Discipline Committee to

¹ 2017 SKCA 65 at para 29 [*Sautner*]

² *Ibid.*

accept evidence by way of Affidavit if the nurse does not appear for a Hearing or the nurse consents, the Investigation Committee states that section 30(10) of the Act establishes two circumstances when Affidavit evidence can be accepted but does not oust the Discipline Committee's broad discretion provided for in section 30(4) of the Act.

15. The Investigation Committee acknowledged the maxim *expressio unius est exclusio alterius* ("to express one thing is to exclude another") but suggested that it is not automatically applied or determinative, relying on *Dorval v Dorval*³.

16. Through oral submissions, Warren Koch identified that he was opposed to the Affidavit Application, citing possible impairment of his ability to cross-examine witnesses and obvious discomfort in stating a position otherwise on the record. Counsel for the Investigation Committee and the Chair of the Discipline Committee explained to Warren Koch that he would not be prevented from cross-examining any of the Investigation Committee's witnesses. Warren Koch noted that he did not want to extend proceedings and would like to conserve resources, but that his preference was in-person proceedings and proceeding in "real-time". Warren Koch was reminded that his Application to proceed in-person was not granted and the Hearing was proceeding virtually.

17. Warren Koch's email dated December 2, 2025 does not address the Investigation Committee's position and Application regarding the Affidavit Application.

18. The Discipline Committee is cognizant of its broad discretion to accept evidence it considers appropriate and that it is not bound by rules of law concerning evidence. The Discipline Committee is also cognizant that it is not obligated to accept any evidence whether through section 30(4) or section 30(10) of the Act. Section 30(10) states:

(10) The discipline committee may, either in the absence of the nurse who is the subject of the complaint or with the nurse's consent, accept evidence on affidavit. [emphasis added]

³ 2010 SKCA 117 at paras 11-13, 14 [*Dorval*]

19. The Discipline Committee is mindful of the resources, time, and expense of disciplinary proceedings and appreciates the efforts of the Investigation Committee to increase efficiencies and Warren Koch's statement that he does not want to extend proceedings and would like to conserve resources; however, the Discipline Committee has concluded that it will not grant the Investigation Committee's Affidavit Application. While it may be that much of the evidence is based on documentary evidence, the Discipline Committee notes that there is value in hearing directly from witnesses in contested proceedings, particularly when considering the Charges of professional misconduct and/or professional incompetence in the Notice of Hearing.

20. The Discipline Committee finds that the allegations contained in the Charges necessitate the ability to observe the demeanor, tone, and body language of the witnesses. Oral evidence will allow for an increased opportunity to assess credibility and allow witnesses to provide context and clarification that written statements may lack.

21. Given the Discipline Committee's decision not to grant the Investigation Committee's Affidavit Application to admit all evidence of the Investigation Committee by way of Affidavit evidence, the Discipline Committee need not determine the interplay between sections 30(4) and 30(10) of the Act.

III. PROCEDURAL FAIRNESS ISSUES DISCUSSION AND ANALYSIS

22. It is understood that Warren Koch alluded to Procedural Fairness Issues throughout the Case Management process, necessitating an opportunity for Warren Koch to articulate and have any Procedural Fairness Issues determined at the earliest opportunity. By way of the October Order of this Discipline Committee, Warren Koch was specifically aware that the November 4 and 5, 2025 Hearing would not proceed as a Discipline Hearing on the Charges set out in the Notice of Hearing and that such dates were reserved to hear arguments on preliminary issues and Applications. Warren Koch was ordered to articulate his Procedural Fairness Issues in writing to allow the Discipline Committee to understand the nature of Warren Koch's concerns and to allow the Investigation Committee an opportunity to respond. Warren Koch did not articulate his concerns with procedural fairness, as ordered. Despite this, the Discipline

Committee sought to understand the procedural fairness concerns Warren Koch had alluded to orally on November 4, 2025.

23. Through extensive dialogue on November 4, 2025, the Discipline Committee came to understand that Warren Koch's Procedural Fairness Issue relates primarily to a three month period where he was not entitled to practice, suggesting his licence to practice had been removed without investigating the allegations against him that ultimately resulted in the Charges set out in the Notice of Hearing and without proceeding through the discipline process. Counsel for the Investigation Committee also surmised that part of Warren Koch's procedural fairness argument was based on the premise of "double jeopardy".

24. Warren Koch also suggested that he had been deprived of the rights of fundamental justice under section 7 of the *Canadian Charter of Rights and Freedoms* (the "Charter").

25. Warren Koch's email of December 2, 2025 provides little argument related to the Procedural Fairness Issues that were understood following the November 4, 2025 proceedings nor does it reference any Charter arguments. Warren Koch's email focused more on statements of evidence and argument concerning the Investigation Committee's decision to proceed with Charges of professional misconduct and/or professional incompetence, suggestions that the Investigation Committee was attempting to delay the Hearing to further investigate or solicit additional information, and concerns with participation in the CRNS' Case Management process, the requirement that he attend proceedings virtually, and involvement of legal counsel for the Discipline Committee. Warren Koch also suggested that the Investigation Committee failed to provide evidence to substantiate the Charges in the Notice of Hearing and that he was not able to defend himself on the Charges laid out in the Notice of Hearing on November 4, 2025.

26. The Discipline Committee finds it necessary to comment on some of the assertions of Warren Koch before moving on to the Procedural Fairness Issues, as summarized in paragraph 24 above.

27. The Discipline Committee finds no merit in Warren Koch's suggestion that the Investigation Committee has attempted to delay the Hearing or to solicit more information. In

particular, the Discipline Committee finds the Affidavit of Cheryl Hamilton sworn November 18, 2025, was filed by the Investigation Committee in relation to the Procedural Fairness Issues understood following the November 4, 2025 applications and was necessary in order to understand the factual background related to the licensure issues Warren Koch had raised.

28. The Executive Director of the CRNS has the decision-making authority regarding whether Hearings will be conducted virtually and the CRNS' Case Management process is intended to organize and plan for Discipline Hearing, ensuring proper disclosure has been provided and to assist in ensuring the Discipline Hearing runs smoothly.

29. Warren Koch was provided notice that a Hearing on the Charges in the Notice of Hearing would not proceed on November 4 and 5, 2025 by way of the Discipline Committee's October Order. Once the Discipline Hearing proceeds, the Investigation Committee's evidence will be called, and Warren Koch will have a full opportunity to provide opening and closing statements, cross-examine the Investigation Committee's witnesses, and call witnesses of his own.

30. Finally, legal counsel for the Discipline Committee's role is advisory in nature, assisting the Discipline Committee to operate within the law. Legal counsel for the Discipline Committee is not a decision-maker and it is appropriate, with the Discipline Committee's permission, for legal counsel for the Discipline Committee to ask questions of witnesses or parties for clarification but does not conduct examinations of witnesses or parties.

31. Warren Koch's email of December 2, 2025 makes the following submissions relevant to the Procedural Fairness Issues:

...

Warren Koch has a bank confirmation number to verify he paid his licensing fees on 30 Nov 2023.

...

The disclosure package contains evidence that a three month gap in licensure has already occurred, pointed this out as a substantive issue, and evidence of prevention of licensure.

...

32. Summarized, the Investigation Committee's position is that the restriction on Warren Koch's licence was placed pursuant to the CRNS Registrar's powers under section 21(1) of the Act such that the Discipline Committee does not have jurisdiction to sit in review or appeal from such decisions. Concerning the "double jeopardy" allegation, the Investigation Committee states that the allegation is not established on the evidence as the licence condition was imposed for reasons separate and apart from the allegations which ultimately resulted in the Charges set out in the Notice of Hearing.

33. Section 21(1) of the Act states:

21(1) The council may delegate to the registrar the power to:

- (a) admit persons as members;**
- (b) register persons as nurses;**
- (c) grant licences to nurses;**
- (c.1) place conditions or restrictions on licences; or**
- (d) all or any combination of the things mentioned in clauses (a) to (c.1);**

and, when a power has been delegated, the exercise of that power by the registrar is deemed to be an exercise by the council.

34. Subsection 21(3) of the Act provides an appeal mechanism should a nurse be aggrieved by a decision of the Registrar based on a delegated power in section 21(1):

(3) Where:

- (a) pursuant to subsection (1), the council has delegated to the registrar the power to do a thing mentioned in that subsection; and**
- (b) a person is aggrieved by a decision of the registrar made in accordance with a delegated power;**

the person may appeal to the council from the decision of the registrar.

35. The Affidavit of Cheryl Hamilton lays out the events that led to Warren Koch receiving a condition on his license on November 30, 2023, that required him to take a step before renewing his licence and ultimately being issued a practicing license in March 2024. The Discipline Committee accepts the evidence sworn in the Affidavit of Cheryl Hamilton. The Registrar implemented the Licencing Condition pursuant to section 21(1) of the Act and finds no need to reiterate the circumstances that led to the Registrar's decision in these reasons.

36. The Discipline Committee is established pursuant to section 29(1) the Act and its powers and jurisdiction are laid out in sections 30 and 31 of the Act. As stated by the Saskatchewan Court of Queen's Bench, as it then was, in *Meier v Saskatchewan Institute of Agrologists*⁴:

12 An administrative body, like the Discipline Committee of the Institute, is a creature of its statute: without the statute, no Institute, and no ability for professional self-regulation. Accordingly, the Discipline Committee's decision must find its legitimacy within the Act and within the principles of constitutional and common law which give the court certain circumscribed powers of intervention in the decision-making process of an administrative body.

37. Subsection 30(3) of the Act specifically sets out what this Discipline Committee may hear and decide:

(3) The discipline committee shall hear the complaint and shall decide whether or not the nurse is guilty of professional incompetence or professional misconduct, and the discipline committee need not refer any matter to a court for adjudication.

38. Section 31 of the Act directs what Orders are available to the Discipline Committee should it find a nurse guilty of professional incompetence or professional misconduct. None of these provisions speak to reviewing a decision of the Registrar based on a delegated power and the Discipline Committee is not aware of any case law that would suggest otherwise.

39. The Discipline Committee concludes that it does not have jurisdiction to consider whether the Registrar appropriately or inappropriately applied the delegated powers in section

⁴ 2014 SKQB 389

21(1) of the Act. Warren Koch's ability to have challenged that decision is specifically laid out in subsection 21(3) of the Act.

40. With respect to the "double jeopardy" argument, being that since the Registrar already restricted his licence preventing him from practice for three months and the Investigation Committee is pursuing the Charges set out in the Notice of Hearing, he is being punished twice. Warren Koch suggests, in his email of December 2, 2025, "that the fundamental principles of justice have been violated already. Charge, Trial, Sentence" equating the restriction placed on his licence by the Registrar as directly related to the Charges set out in the Notice of Hearing.

41. The Investigation Committee notes the explanation and application of the concept of double jeopardy to professional discipline proceedings was clearly outlined in *Carruthers v College of Nurses (Ontario)*⁵:

[78] There must first be a *factual* nexus between the charges. For the rule to be implicated, the same act of the accused must ground each of the charges. See, *R. v. Prince, supra*, at p. 44, per Dickson C.J.C.

[79] There must also be a sufficient *legal* nexus between the offences to sustain the application of the rule. The inquiry focusses upon the presence of *distinguishing elements*, not shared elements, to determine the applicability of the rule. The requirement of legal proximity is only met where there is *no* additional and distinguishing element that goes to guilt contained in the offence for which a conviction is sought to be precluded under the rule.

...

[87] In my respectful view, the rule against multiple convictions, the *Kienapple* principle, applies in disciplinary proceedings taken against members of a self-regulated profession. The rule erects no bar to a multiplicity of findings of guilt, each recorded in respect of a different factual event. What it seeks and does do, however, is to bar multiple findings of guilt where the same or substantially the same elements make up the offence. There would seem no reason in principle to permit the application of the doctrine in respect of "regulatory" offences under provincial law, yet deny it to members of self-regulated professions in the case of prosecutions for alleged misconduct. There is about such

⁵ (1996), 141 DLR (4th) 325 (Ont Ct J (Gen Div))

prosecutions, after all, a "public" aspect. The discipline and/or disqualification of members of a self-regulated profession affords protection to members of the public who, by choice or otherwise, engage their services. Prosecutions for professional misconduct ensure that those who undertake the regulated activity are fit to do so. The public is protected by disqualification of those who fail to achieve or maintain such standards. There can be no quarrel with the proposition that a registrant/member ought be held liable for each breach of the governing rules of the profession. No one, however, should be twice punished for the same delict or matter. It is as much the case for professional discipline as it is for a regulatory offence.

42. Having accepted the evidence laid out in the Affidavit of Cheryl Hamilton, the Discipline Committee concludes that no double jeopardy has occurred or is at risk of occurring. The restriction placed on Warren Koch's licence on November 30, 2023 was separate and apart from the Investigation Committee's investigation and ultimate decision to proceed with the Charges set out in the Notice of Hearing. There is no factual nexus between the Registrar's exercise of delegated power to place conditions on Warren Koch' licence and the allegations which led to the Charges in the Notice of Hearing. There is no evidence the same or substantially the same allegations at issue in the Charges in the Notice of Hearing led to the Registrar's decision to restrict Warren Koch's licence. In fact, the Registrar's evidence is that the decision to place the restriction was based solely on a telephone call with Warren Koch on November 30, 2023.

43. The Discipline Committee has concluded that no "double jeopardy" has occurred.

IV. CONCLUSION

44. The Discipline Committee has dismissed the Investigation Committee's Application to submit witness evidence by way of Affidavit.

45. The Discipline Committee has found that it does not have jurisdiction to review or hear an appeal of the decision of the Registrar to restrict Warren Koch's licence in November 2023. The Discipline Committee has further concluded there has not been and there is no risk of

“double jeopardy”. The Procedural Fairness Issues raised by Warren Koch are therefore also dismissed.

46. As no Charter arguments have been particularized by Warren Koch, the Discipline Committee makes no determination in that regard.

January 27, 2026



Chris Etcheverry, RN, Chairperson
On behalf of Members of the Discipline Committee
Christine Barlow, RN Retired
Joann Blazieko, RN
Leonard Wegner, RN
Russ Marchuk, Public Representative