

INVESTIGATION COMMITTEE  
of the  
SASKATCHEWAN REGISTERED NURSES' ASSOCIATION

- and -

Gregory W. Pittman  
Saskatchewan RN # 0034554  
SASKATOON, SASKATCHEWAN

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DECISION  
of the  
DISCIPLINE COMMITTEE  
of the  
SASKATCHEWAN REGISTERED NURSES' ASSOCIATION

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Appearance for the Investigation Committee:	Mr. Roger Lepage
Appearance for Gregory W. Pittman:	None
Appearance for the Discipline Committee:	Ms. Darcia Schirr, Q.C.
Chairperson for the Discipline Committee:	Ms. Lynda Kushnir Pekar, RN

Date of Hearing: September 29, 2014  
Ramada Plaza Regina  
1818 Victoria Avenue  
Regina, Saskatchewan

Date of Decision: November 21, 2014

## INTRODUCTION

On September 29, 2014 the Discipline Committee of the Saskatchewan Registered Nurses' Association (SRNA) convened to hear and determine a complaint of professional misconduct against Registered Nurse # 0034554, Gregory W. Pittman. The Discipline Committee is established under section 30 of *The Registered Nurses Act, 1988 (The Act)*.

The allegations against Mr. Pittman are outlined in a Notice of Hearing dated May 1, 2014 charging him with professional misconduct contrary to section 26(1) and 26(2) (1) of *The Act*, and sections A.1, A.3, D.1, D.10, F.2, F.3, G.1, and G.9 of the *Code of Ethics for Registered Nurses (2008)*.

The Notice of Hearing sets out one charge with 15 particulars:

### **Charge Number 1**

**You, Gregory Pittman, are alleged to be guilty of professional misconduct contrary to section 26(1) and 26(2) (1) 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.**

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

...

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

**Particulars of the professional misconduct alleged are that:**

**On May 31, 2010 the SRNA received documentation from Jenny Bartsch, Director, Surgery, Royal University Hospital, Saskatoon, Saskatchewan stating you were terminated on May 20, 2010 for just cause related to your sexually inappropriate conduct, verbally and**

physically, towards a number of your co-workers both at the work place and outside the work environment. The particulars are as follows:

1. While at work you asked a co-worker if she “sold anything for erections”, indicating to her that you have had problems in this area and had not had sex with your wife for six years.
2. While at work you hugged and touched co-workers in ways that made them uncomfortable.
3. While at work you used sexually explicit language directed towards co-workers.
4. You attended a co-worker’s place of employment (tanning spa) and while there stood naked in front of this co-worker and masturbated. You asked the co-worker if she “liked what she saw” and indicated that you “shaved down there” for her, pointing to your penis area. You also grabbed the co-worker’s hand and pulled it towards your mid-section at which point she pulled away and left the room. Following the co-worker leaving the room, you ejaculated on the tanning bed, which she was required to clean.
5. While at work you were observed by a co-worker touching the breasts of a patient while assisting this patient getting out of bed.
6. While at work you informed a female co-worker that her “butt looked good in her pants”.
7. While at work you asked a female co-worker if she was “having unprotected sex with her boyfriend” and asked if her boyfriend “was circumcised”.
8. While at work you provided a co-worker with your cell number and invited her to watch you get “waxed”.
9. While at work you massaged a co-worker’s back and neck without asking permission, to which the co-worker pushed your hands away.
10. While at work you came up behind a co-worker and pushed your chest and body up against her back.
11. While at work you stood in doorways and using your body prevented co-workers from leaving the room when they attempted to do so.
12. While at work you touched a co-worker in the crotch area over his clothing.

- 13. While at work you walked up behind a co-worker, reached around her waist with your left hand and brushed your hand down along her inner thigh and crotch area.**
- 14. While at work you brushed a co-worker's arms and attempted to touch her breasts.**
- 15. While at work you walked up behind a co-worker, wrapped your arms around her breast area and began to grope her while pulling her towards you.**

**The notice alleges that various provisions of the SRNA Standards and Competencies and the Canadian Nurses Association *Code of Ethics* have been breached.**

The relevant provisions of the *Code of Ethics* (Canadian Nurses Association, 2008) are as follows:

**Ethical responsibilities:**

**A.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.**

**A.3 Nurses build trustworthy relationships as the foundation of meaningful communication, recognizing that building these relationships involves a conscious effort. Such relationships are critical to understanding people's needs and concerns.**

**D.1 Nurses, in their professional capacity, relate to all persons with respect.**

**D.10 Nurses treat each other, colleagues, students and other health-care workers in a respectful manner, recognizing the power differentials among those in formal leadership positions, staff and students. They work with others to resolve differences in a constructive way. See Appendix D.**

**F.2 Nurses refrain from judging, labelling, demeaning, stigmatizing and humiliating behaviours toward persons receiving care, other health-care professionals and each other.**

**F.3 Nurses do not engage in any form of lying, punishment or torture or any form of unusual treatment or action that is inhumane**

or degrading. They refuse to be complicit in such behaviours. They intervene, and they report such behaviours.

**G.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.**

**G.9 Nurses share their knowledge and provide feedback, mentorship and guidance for the professional development of nursing students, novice nurses and other health-care team members. See Appendix D.**

Further, the Notice states that the following provisions of the *Standards and Foundation Competencies for the Practice of Registered Nurses, 2007* have been breached:

#### **STANDARD 1 – PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY**

**The registered nurse:**

- 1. Is accountable and accepts responsibility for his/her own actions and decisions.**
- 2. Articulates and enacts the role and responsibilities of a registered nurse as a member of the health care team.**
- 5. Demonstrates professional presence.**
- 7. 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 team.**
- 13. Promotes healthy, culturally safe environments.**
- 14. Recognizes and addresses abusive situations.**
- 27. Demonstrates professional leadership by:**
  - a. building relationships and trust;**
  - b. creating an empowering environment;**
  - c. supporting knowledge development and integration within the health team;**
  - d. leading and sustaining change; and**
  - e. balancing competing values and priorities.**

### **STANDARD III – ETHICAL PRACTICE**

**The registered nurse:**

**66. Practices in accordance with the values of the current CNA code of ethics for registered nurses and the accompanying responsibility statements, as amended from time to time.**

**68. Establishes and maintains professional relationships and boundaries with clients and other team members.**

### **STANDARD IV – SERVICE TO THE PUBLIC**

**84. Collaborates with all members of the health care team to facilitate:**

- a. assignment and monitoring of appropriate workloads;**
- b. delegation to and monitoring of the performance of delegated registered nursing activities;**
- c. maintenance of professional boundaries and accountabilities;**
- d. direction and coordination of team members in emergency situations; and**
- e. evaluation of team staff mix.**

**85. Participates and contributes to nursing and health care team development by:**

- a. building partnerships with health team members, recognizing and respecting the unique and shared competencies of each member;**
- b. recognizing that values, assumptions and positional power affects team interactions;**
- c. contributing nursing perspectives on issues;**
- d. recognizing and supporting the scope of practice of various disciplines;**
- e. using appropriate channels of communication; and**
- f. providing and encouraging constructive feedback amongst team members.**

**87. Uses established communication protocols within and across health care agencies and with other service sectors.**

**89. Ensures a culture of safety by using established occupational health and safety practices, and other safety measures to protect client, self and colleagues from injury or potentially abusive situations.**

## **PROCEDURAL BACKGROUND**

Before addressing preliminary matters that were raised at this hearing and the evidence presented, it is helpful to set out the history of this case.

On May 20, 2010, Mr. Pittman's employment with the Saskatoon Health Region was terminated for just cause. The Saskatoon Health Region (SHR) also filed a written complaint about Mr. Pittman to the SRNA. Employers are obligated to report termination if the reasons for the termination were either professional misconduct or professional incompetence. This is set out in 43(3) of *The Act*:

**43(3) Any employer who terminates the employment of a nurse on the grounds of alleged professional incompetence or professional misconduct shall report in writing to the association:**

- (a) the termination of the nurse; and**
- (b) the grounds of the alleged professional incompetence or professional misconduct.**

After an investigation by the Investigation Committee, discipline charges were recommended. As a result, Mr. Pittman was charged with professional misconduct by Notice of Hearing dated March 21, 2011.

A discipline hearing proceeded on May 30 and May 31, 2011 before the Discipline Committee. Neither Mr. Pittman nor any lawyer on his behalf appeared or participated at the hearing. The Investigation Committee called eight witnesses to testify at the hearing. By a decision dated September 20, 2011, the Discipline Committee found that a number of the allegations of professional misconduct had been proven. Mr. Pittman filed an appeal to the Court of Queen's

Bench. The Court of Queen's Bench allowed Mr. Pittman's appeal and ordered that a new hearing occur before a new Discipline Committee.

This is therefore the second discipline hearing before a differently constituted Discipline Committee.

## **HEARING**

### **Preliminary Matters**

#### **a) Proceeding in the absence of Mr. Pittman**

When the Discipline Hearing convened on September 29, 2014, Mr. Pittman was not present. No legal counsel appeared for him. Counsel for the Investigation Committee advised that a pre-hearing conference was held on September 9, 2014 and at that time legal counsel, Jay Watson, participated by telephone on behalf of Mr. Pittman. Mr. Watson indicated that he was only appearing for Mr. Pittman at the pre-hearing conference and that he would not be attending the hearing on behalf of Mr. Pittman. Mr. Watson also indicated it was unlikely Mr. Pittman would attend the hearing.

The Investigation Committee tendered proof of personal service of the Notice of Hearing which indicated that Gregory Pittman was personally served with the Notice of Hearing on May 11, 2014. The Investigation Committee then asked for leave to proceed with the hearing in Mr. Pittman's absence. Pursuant to section 30(9) of *The Act*, the Discipline Committee ordered that the hearing proceed as it was satisfied that Mr. Pittman had notice of the hearing.

#### **b) Affidavit Evidence**

Counsel advised that the Investigation Committee sought to prove its case through a number of Affidavits. The Discipline Committee was further advised that both Jay Watson and Mr. Pittman

had been provided with copies of all of the Affidavits and advised that the Investigation Committee would seek to proceed with the hearing on the basis of Affidavits. The Affidavits were sworn by witnesses who testified at the first discipline hearing in May, 2011. The Affidavits attach the transcripts of the testimony given by the witnesses at the earlier hearing.

Section 30(10) of the Act is as follows:

**30(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.**

The Discipline Committee finds that Mr. Pittman was aware that the hearing would proceed on the basis of Affidavit evidence. Mr. Pittman chose not to appear at the hearing. The Discipline Committee allowed the Investigation Committee to file Affidavit evidence.

**c) Identity of Witnesses**

Counsel for the Investigation Committee requested that the Discipline Committee decision identify witnesses by initials only given the sensitivity of the evidence.

Under the SRNA Bylaws, discipline hearings are public. This hearing was open to the public. Depending on the allegations, the Discipline Committee is sensitive to the privacy rights of complainants and witnesses. Identifying complainants or witnesses by initials does not offend the principles of open and accessible hearings. The Discipline Committee will identify witnesses by initials in this decision.

Further, the Discipline Committee directed the media present to identify any witnesses by initials only in any media report.

**SUMMARY OF EVIDENCE**

The Investigation Committee filed the following exhibits:

1. P-1: Affidavit of Service sworn May 12, 2014 with Notice of Hearing;
2. P-2: Email exchange between counsel for the Investigation Committee and Jay Watson;
3. P-3: Binder of documents.

P-3 contained an arbitration decision dated September 11, 2014 between the Saskatchewan Union of Nurses, the SHR and Mr. Pittman. The Discipline Committee was advised that Mr. Pittman grieved the termination of his employment by SHR. An arbitration hearing was held over a number of days in November and December, 2013 and January, 2014. Mr. Pittman participated in the arbitration hearing and he was represented by union counsel who cross-examined witnesses. Further, Mr. Pittman testified at the arbitration hearing. This Discipline Committee considered the decision of the arbitration panel for information purposes only.

P-3, Tab 3 is a SRNA document entitled “Verification of Registration Status”. Mr. Pittman is now 58 years of age and he completed his nursing program in June, 1995 when he was 39 years of age. The registration information illustrated that he first registered with the SRNA on September 15, 1995 and thereafter worked at St. Paul’s Hospital, Provincial Corrections and Saskatoon City Hospital.

P-3 contained eight Affidavits. As described earlier, the Affidavits consisted of the transcripts of testimony given by witnesses at the first discipline hearing held May 30 and May 31, 2011.

This is a summary of those Affidavits.

(1) DN (Exhibit P-3, Tab 5)

DN is a registered nurse and was the nursing manager of the Orthopedic Unit at Saskatoon City Hospital. He had been the manager of the Orthopedic Unit at St. Paul’s Hospital from December 2006 until its amalgamation with the Orthopedic Unit at Saskatoon City Hospital on September 24, 2007. DN was appointed the manager of the amalgamated units and remained the manager up to the date of his testimony. Mr. Pittman was part of the staff at St. Paul’s Hospital and was transferred to Saskatoon City Hospital in September 2007.

The unit at Saskatoon City Hospital consists of 48 beds including a six bed surgical observation unit. The staff complement ranges from 120 to 135 full, part time and casual positions assigned to cover six active pods and a six bed inpatient unit called the surgical observation unit (Tab 5, Transcript p. 20). Inpatient rooms consist of semi-private and private rooms and from the nursing station you cannot see all the rooms. The ward has a rapid turnover of patients, many who were reported to be elderly.

Several education institutions use this unit for student clinical placements.

DN described receiving numerous complaints regarding Mr. Pittman. In the winter of 2007, a complaint was received regarding Mr. Pittman's refusal to take a patient transfer. The incident involved a nursing supervisor and DN described the behavior of Mr. Pittman as unprofessional.

In July 2008, Mr. Pittman received a written warning purported to involve "...inappropriate conduct, touching in sexual manner" (Tab 5, Transcript p. 35).

In February 2009, a further incident lead to a conversation between DN and Mr. Pittman regarding professionalism and open lines of communication.

In March 2010, DN received a voicemail message from a nursing instructor reporting concerns about Mr. Pittman's inappropriate behaviors with a student on the unit. This student, JK, wanted to file a complaint against Mr. Pittman, "where she received inappropriate behaviors demonstrated onto her in the surgical observation unit..." (Tab 5, Transcript, p. 36).

In April 2010, DN describes wanting to speak to SH, a unit assistant, regarding her work performance. SH apparently was not processing orders correctly as well and that things were being missed. This was not typical behavior for SH. SH indicated to DN that "she was not sleeping well, and so she said she would improve" (Tab 5, Transcript, p. 36). On April 22, 2010 DB, a licensed practical nurse, came to see DN in his office. DB stated that SH needed to speak

to him. Shortly following this conversation SH came to see DN. DN testified that "...she was very emotional and crying and such, and stated to me that she had experienced something horrific..." (Tab 5, Transcript p. 36-37) and "...we talked for about 45 to an hour, 45 minutes to an hour, and she gave me her experience and – and indicated that it happened outside of work, but was initiated during work of the appointment or proposed appointment for a tan" (Tab 5, Transcript, p. 37). DN stated that he understood the rationale for why SH's work performance had deteriorated dramatically. DN then contacted the Saskatoon Health Region (SHR) harassment officer to get in touch with SH. DN also left voicemail messages with Barry Barss, a labor relations representative with the SHR.

DN further stated, "once there was an understanding that there was these events against Greg, there was other staff members coming forward with other experience – experiences that they had that they did not disclose to me earlier" (Tab 5, Transcript. p. 42). This further lead to the SHR hiring an investigator, named Frank Ortman, to conduct a full investigation and speak to those involved. The Ortman report "had found and what the region viewed as the – the potential for reenactments of this behavior because there was a history of -- of – of discipline and – and behavior related or unrelated, either, inappropriate behaviours demonstrated by Mr. Pittman, that it was viewed as a – a threat to public, to patients, and to staff" (Tab 5, Transcript, p.45).

SHR terminated Mr. Pittman's employment on May 20, 2010 with cause.

(2) SH (Exhibit P-3, Tab 6)

SH was a unit clerk on the orthopedic unit at Saskatoon City Hospital at the time of the allegations. Council for the Investigation Committee described SH as having a good reputation at work and states that SH continues to be off work related to health issues arising from her experiences with Mr. Pittman. Notably, SH had significant employment tenure with the SHR.

The transcript of her testimony is lengthy, with numerous references to incidents involving Mr. Pittman.

SH testified that Mr. Pittman would frequently invade her personal space at work and constantly come up to where she was working. He would touch her and bring his seat right up to her, put his hands on her legs and put his leg in between her legs. He would try to give her massages at work. She would get up and leave. Matters reached the point that she would often leave the ward and lock herself in the bathroom. This type of pursuit continued. Sexually inappropriate comments occurred, “it was always dirty talk at work. Like, I haven’t had sex...” (Tab 6, Transcript, p. 60).

SH further testified that:

**he’d always say he hasn’t had sex with his wife for a long time, and, you know, when is the last time you had sex and things like that. And that he jerked off in the shower, and – and he hasn’t slept with his wife for six, seven years. A long time. And – he says, well, any time you want to have sex with me – like, later on, he’d you know, just give me a call, and, you know, here’s my number (Tab 6, Transcript, p. 60).**

She stated that these statements made her feel very uncomfortable.

SH had secondary employment at a health food store with a tanning salon at the back of the store. Mr. Pittman “asked me if they sold anything there to get – have a hard on because, he says, I haven’t been hard for awhile, and I just want to know if I can take anything to have a hard on” (Tab 6, Transcript, p. 61).

An incident occurred in November 2009, where she was working at her secondary job. SH testified that Mr. Pittman had shown up at the health food store at 0900hrs. He apparently indicated he wanted to have a tanning session. She let him in although he did not have an appointment. She showed him the tanning salon and provided instructions to him. She describes saying to him that he should summon her when he was ready and she would turn on the tanning bed. SH testified that when she was called to the back tanning room,

**he was jerking off, and he – he – had a hard on. He was hard, and he says, do you like what you see?... then he said, oh, I shaved down there for you, and – and we can do it on the bed here, and – and I**

**just kind of froze. And then he grabbed my hand, and he says, come on, touch it. Feel it.**

(Tab 6, Transcript, p. 64)

He stayed in the tanning facility for about 10 minutes then left in a hurry. No other customer was in the store during this allegation. SH describes going back into the tanning room, following Mr. Pittman's departure and that "I know he jerked off all over the bed because I had to clean it. It was gross. It was just disgusting" (Tab 6, Transcript p. 85). Three days later SH went to Saskatoon City Hospital to work and Mr. Pittman approached SH and asked SH to keep the events secret. Mr. Pittman kept coming close to SH and SH could no longer focus on her job duties. He would not leave her alone.

It is also noted that SH explained she did not report the instances she experienced to her manager initially, because she was just a unit clerk and he was the RN who had power over her. She was concerned her job would be at risk if she took action on the above particulars.

(3) JK (Exhibit P-3, Tab 7)

JK was a University of Saskatchewan/Saskatchewan Institute of Applied Science and Technology (SIAST) nursing student. JK stated in her evidence that she was in her second year of nursing school. She was assigned to do a two day clinical placement in the surgical observation suite at the Saskatoon City Hospital as part of her academic studies. JK encountered Mr. Pittman once – on March 30, 2010 at Saskatoon City Hospital.

JK stated that it was usual courtesy for her on her first day of clinical placement to introduce herself to the entire staff. She introduced herself and shook Mr. Pittman's hand. She testified that "I shook his hand...he held my hand for – it was an uncomfortable period of time...I thought that maybe he recognized me...why was he holding my hand, and then he said to me that that's the effect he has on women" (Tab 7, Transcript p. 102). It made her feel uncomfortable.

Later that day, Mr. Pittman came and called JK out from the room where she was taking care of a patient. He summoned JK to assist him with a patient dressing change. "...he brought me into a room with a patient. He was doing an uncomplicated dressing change. Required zero assistance whatsoever from me...he took me away from my patient to do nothing" (Tab 7, Transcript p. 104).

The following incident occurred that day when JK was in the medication room. She was researching a narcotic medication and performing a drug calculation prior to preparing the medication. Her testimony reveals:

**I was there by myself, and Greg Pittman came in, stood behind me as I was doing the calculation. His left shoulder was touching my right shoulder, and I could feel his body against mine...He reached around with his left hand, touched my vagina and the – my inner thigh, and pretended to look at my name tag...I then took my name tag off, told him it was removable if he needed to see it**

**I didn't know what I was allowed to say or do as a nursing student. This is a RN. He is supposed to be looking out for me. I felt violated. I am disgusted that he carried the initials that I am striving so hard to ascertain. That's how I felt**

(Tab 7, Transcript p. 107).

A short while later, JK was reading a newspaper and Mr. Pittman on a stool on wheels rolled up to her where JK was. Mr. Pittman "came up right beside me shoulder to shoulder. That would have been his right shoulder to my left shoulder, said what was I reading? ... I turned and looked at him, and I said I'm quite certain personal space is 3 feet, and I then left" (Tab 7, Transcript p. 111).

That day, JK spoke to her clinical instructor about what transpired. JK stated:

**He held my hand for a long time, that I was pulled away unnecessarily, that he trapped me in the medication room, that he – I feel like it's been referred to as sexually inappropriate touch. That's bogus. That's assault. Being touched unwanted in an unwanted area is assault, and I don't want it minimized saying that it was touch. It was more than that. I told her what happened**

(Tab 7, Transcript p. 113).

The clinical instructor called the unit manager and they had a meeting with respect to this. JK insisted she would not go back to Saskatoon City Hospital unless Mr. Pittman was removed. JK would only go if he was not working. This triggered Mr. Pittman's Employer to initiate a complete investigation. JK speaks of the effect this has had on her. JK states:

**Hopefully when you begin your journey to become a nurse you are focused, scientific, and of course, the caring component needs to be there. You would expect that those you work with hold the same virtues and consider the same things sacred, the human body, the vulnerableness of it, and the fact that we are the voice for the voiceless. He stripped me of that that day. When I went home, I felt dirty, I felt unsafe, and I thought, how would that person feel if they were the ones lying in the bed who couldn't say anything? That's when I decided that I would take this as far as it needed to go because I'm stronger than many of those who have been victimized**

(Tab 7, Transcript p. 117).

Counsel for the Investigation Committee also noted that JK had received counseling to help with her above experiences.

(4) DB (Exhibit P-3, Tab 8)

DB has a Bachelor of Arts degree and a 2-year Licensed Practical Nurse diploma from the Saskatchewan Indian Institute of Technology (SIIT). She initially met Mr. Pittman in the fall of 2007 when the units amalgamated.

Within a few weeks of meeting Mr. Pittman, DB was in the staff room reading directions on the package of a frozen entrée she was going to put into the microwave. DB testified that Mr. Pittman came up behind her and touched DB "in my breasts...his body was pressed up against my back, and he was very close into me because I could feel him breathing on my neck...he was touching me" (Tab 8, Transcript p. 125).

DB then swore at Mr. Pittman and said, “back the fuck up” (Tab 8, Transcript p. 125). Mr. Pittman’s response was “What did you say?” (Tab 8, Transcript p. 125), and DB said, “you heard what I said” (Tab 8, Transcript p. 125). After that incident, Mr. Pittman did not bother her again.

Witness CP corroborates the testimony of DB in tab 10, specifically in the transcript page 172-173.

(5) SJ (Exhibit P-3, Tab 9)

SJ is a male special care aide who began working at St. Paul’s Hospital in December 1999. In June 2008, he began working at the City Hospital and he remained there until April, 2010.

His testimony speaks about the sexual discussions that Mr. Pittman would make during the course of his workday. Non-sexual discussions inevitably turned to discussions of a sexual nature. For example: “...he (Mr. Pittman) had a banana, and he made a comment about the banana, and then he, with the back of his hand, touched my groin” (Tab 9, Transcript p. 143) and “...a comment about a hotdog...something to do with a big hotdog you got there or something, and...he would come up and start massaging me without my – I mean, not asking” (Tab 9, Transcript p. 143). SJ testified that Mr. Pittman had touched him in a sexual way to his groin area and would massage him without permission four to five times per day. He also witnessed Mr. Pittman giving other people massages throughout the day, often whom would push him away from them.

SJ also noted that a nurse was on the telephone. Mr. Pittman rolled his chair up towards her and “put his knee up against her inner thigh and put her – his arm around her and said, I can do better than what your husband can do. And I just was really shocked with what...” (Tab 9, Transcript p. 147). SJ could not recall the date this occurred.

(6) CP (Exhibit P-3, Tab 10)

CP is a licensed practical nurse that began working at the St. Paul's Hospital in October 2005. In September 2007, she moved to Saskatoon City Hospital as part of the amalgamation.

CP testified that she quite often worked alongside Mr. Pittman in a RN/LPN combination. She testified about the inappropriate behavior of Mr. Pittman.

She said Mr. Pittman would often talk to her about personal things. He would ask her questions like, "...are you in a relationship? You know, are you dating? Are you married? You know, what's your current status?" (Tab 10, Transcript p. 158). CP told Mr. Pittman she had a boyfriend. CP testified that she "was forewarned through coworkers that – that he has a history of targeting..." (Tab 10, Transcript p. 158). CP stated she felt very uncomfortable providing that information. Mr. Pittman asked her if she was "satisfied" and CP understood that to mean, was she satisfied in a sexual way with her boyfriend. She was suspicious of Mr. Pittman and simply responded that she was happy in her current relationship.

CP testified that Mr. Pittman had discussed the care he provided to his daughter and that "his daughter would only allow her dad to give her Tylenol suppositories because that's what made her feel better, and the mom would – would not be asked to give these suppositories because dad knew how to do it best." (Tab 10, Transcript pp. 160-161).

CP testified that discussions of a sexual nature occurred in the staff room at St. Paul's Hospital during staff breaks. For example, Mr. Pittman apparently had a lawn care business outside of his nursing employment and he would state to the staff that he often saw fully naked or half-naked women in their back yards when he was doing lawn care work. Mr. Pittman also had "an open relationship with his wife" (Tab 10, Transcript p. 173).

CP testified that she talked about him touching her inappropriately; he would pull her close to him, and give her non-consensual hugs. It made her very uncomfortable and he would massage her shoulders when she would be sitting down. She would pull away but he would continue to try to massage her. She stated that "Gregory has touched me inappropriately...put his arms around

me, pulled me close, gave me hugs, non-consensually, so, yeah, I felt very uncomfortable when he did these” (Tab 10, Transcript p. 166) and “you didn’t really know that he was giving you a hug until the hug was done” (Tab 10, Transcript p. 167). When CP was asked how often Mr. Pittman would massage her, she stated, “I would say that it would probably – it would be every shift” (Tab 10, Transcript p. 167). CP testified that an incident occurred on her birthday Mr. Pittman came to her and gave her a hug and stated “Happy Birthday”.

Within days of the move to Saskatoon City Hospital, she was paired with witness DB. She felt she needed to tell DB that Mr. Pittman was a “pervert”. DB and CP had gone to the staff room and DB was in there near the microwave preparing her meal and DB was in the doorway. Mr. Pittman, “walked up behind D.B., pressed his body against her, his chest, and his midregion, and whispered something into her ear...she did confront him in a very rude manner, and I was standing at the doorway, and he quickly left” (Tab 10, Transcript pp. 172-173).

(7) LL (Exhibit P-3, Tab 11)

LL has been a special care aide since 2001. In 2005, LL began a casual position at Saskatoon City Hospital and floated between units and had worked on the orthopedic unit at Saskatoon City Hospital.

LL testified that when she first met Mr. Pittman:

**he talked about sports and groups, and then inappropriate language in which I just kind of sloughed off as him just being a little odd or different. Sometimes, like, a little creepy, but –then, at one point, at one of my son’s soccer games, he was standing on top of the stairs, and when I seen him, I thought, oh, you know, hi, and then he’s like, I came here to watch the game with you. So I kind of thought that was a bit odd...**

(Tab 11, Transcript pp. 184-185).

LL discussed how Mr. Pittman would “show up” for her son’s soccer games and had attended the next five to six games. She testified that she was unsure how he found out when the kids were having sporting events. She testified:

**I’m guessing he was watching the front door for me to come up because he was – then when you walk up the stairs, that’s where he was” (Testimony, p. 188) and “I – I said, so are your kids playing on the other side? And he says, no, my kids aren’t here. And so then I kind of got a little – a little nervous and my – kind of the flags went off like something’s not – not right here**

(Tab 11, Transcript p. 189)

LL stated that Mr. Pittman would then stay with her for the duration of the soccer game. LL, would, in an attempt to avoid discussion with Mr. Pittman, “took my phone out, and I texted my husband just because I – as I – kind of like a distraction, I guess” (Tab 11, Transcript p. 191). When questioned, Mr. Pittman indicated that his children were not at the soccer game. At one point, the above actions prompted LL to ask her manager, DN, to change her work schedule so that she would not have to work in the same “pod” as Mr. Pittman.

LL testified that Mr. Pittman would block entrances to rooms so staff inside the room would have felt uncomfortable and when “I was washing ice packs in the dirty utility, he came and stood by the door so I couldn’t exit without touching him, so I just stayed in there until he decided to leave” (Tab 11, Transcript p. 193). She further testified that she would stay outside of the “report room” to wait until Mr. Pittman finished giving his nursing report so that she did not have to be around him and he made her feel uncomfortable.

She also testifies about inappropriate language that Mr. Pittman engaged in while she and others were in their staff room. LL did give one example where a female staff member had returned from a beach holiday and “I was in the report room, he talked about some girl’s (staff member in the staff room) tan and her bra, and then he talked about the beach and their holiday, and he asked if they had had sex on the beach?” (Tab 11, Transcript pp. 186-187). LL felt that this discussion with another staff member infringed on her privacy and it was inappropriate for Mr. Pittman to ask such questions of another. Staff would roll their eyes and leave.

LL testified about how mild discussions would turn sexual, in nature, and she stated that "...if you bring up a pencil, he'll talk about it like – he'll refer to it as a penis, or he'll turn regular items into sexual talk" (Tab 11, Transcript p. 198).

Plans for a safe exit were required when leaving work at the end of the shift. Female staff members would pair up after shift and walk out together, so as to not be alone if Mr. Pittman was around. She testified, "One of the girls that – I can't remember her name either, but I -- I – I had asked her when I leave, can I just leave a couple minutes early so I can get ahead of everybody so that I wouldn't have to leave at the same time as Greg" (Tab 11, Transcript pp. 198-199).

LL also testified that she had a certain fear and feeling of intimidation and that she was not accepting many shifts on the orthopedic unit, claiming she was "on edge" when she was around Mr. Pittman.

(8) DW (Affidavit Evidence Tab 12, Exhibit P-3)

At the time of the initial hearing on May 31, 2011 this witness was referred to as DW. As per the personal Affidavit, DW's initials are noted to be DA. For the purpose of this testimony, reference will be made to this person as DW.

DW is a licensed practical nurse that started her career at St. Paul's Hospital in the orthopedic unit. She remained at St. Paul's after the transfer of the orthopedic unit to Saskatoon City Hospital. When DW started at St. Paul's Hospital she had just moved from Melfort, Saskatchewan. She testified that one of her first encounters with Mr. Pittman was in the staff room while she was talking to another female LPN. The discussion turned to personal care and specifically DW asked the other female LPN about good salons for waxing. Mr. Pittman joined the conversation, and "he goes for regular waxing to a place on Broadway, and he kind of stayed for the rest of that conversation..." (Tab 12, Transcript p. 214).

A few days later Mr. Pittman called DW at her home and “he gave me the name of the business on Broadway and the name of the girl who was doing his waxing, and he said he was going for a Brazilian wax, and he had asked if I wanted to come along and watch to see that it didn’t hurt, the Brazilian waxing didn’t hurt...I was taken aback” (Tab 12, Transcript 215). She was surprised how he got her phone number.

On another occasion, DW was speaking to another RN, and Mr. Pittman approached them. She said to another RN that she had to go get checked for a bladder infection and that she was prone to having them. Mr. Pittman stated to DW, “I wonder if you guys are having unprotected sex...and he said, well, is he circumcised?...you know, if you’re having unprotected sex, and he’s not circumcised, you can get a bladder infection from that” (Tab 12, Transcript p. 217). DW further indicated that any simple conversation turned, “into a sexual-natured conversation” (Tab 12, Transcript p. 217). He asked her if she dates a lot of guys.

DW also claimed that Mr. Pittman had inappropriate discussion regarding his children. Mr. Pittman would say that when his daughter was sick, “she preferred not to have oral medication, that she preferred that he give her rectal suppositories. But she only preferred daddy to give her rectal suppositories” (Tab 12, Transcript p. 218). On another instance, Mr. Pittman indicated that his daughter “liked to sleep with him, and she felt more protected sleeping with daddy” (Tab 12, Transcript p. 218).

Mr. Pittman had a tendency of walking up behind her and saying you look tense and start to massage her. She would move away but he would continue. Once he:

**he took his hands, and he put them on my back with his thumbs almost kind of on either side of my spine, and he took his hands and rubbed down my spine, kind of putting hands down the side so that he could feel the sides of my breasts**

(Tab 12, Transcript p. 219).

She moved away and went to the medication cart and tried to ignore him. She always tried to move away from him. She would tell nursing students to stay away from him and would interrupt girls who went into private rooms with him.

She testifies about getting pregnant and coming back for an education day during her maternity leave. She brought her baby with her. She walked passed Mr. Pittman in the Saskatoon City Hospital main lobby and she “was wearing blue jeans and a -- a shirt and a jacket. And I pushed the stroller by him, and I said to him – I said, hi, Greg, and he turned around and said, oh, hi. What are you doing here? And I said, oh, I’m at an ed day today...” (Tab 12, Transcript p. 225) and Mr. Pittman also stated, “you have an ass in those jeans. It looks really good” (Tab 12, Transcript p. 225). She kept on walking and did not acknowledge his statement. She felt violated.

Mr. Pittman also made comments about the sexual relationship of he and his wife around DW and “how he never gets any and how it was just a friendship that he had with his wife...” (Tab 12, Transcript p. 227). He would ask DW if she had sex if he found out she was dating or if she had slept with her date on the first date. He would state that she must like having sex with a lot of guys.

DW never reported Mr. Pittman because she felt he was in a position of power. DW testified, “I felt like I was new there in the very beginning, and I didn’t want to stir up shit, you know” (Tab 12, Transcript p. 229). DW noted that he would pick on subordinates and he would not pick on other RN’s. He was “higher up” than DW. He would spend a lot of time at the desk and with the ward clerks, only the females, the skinny and pretty ones. If they were susceptible like going through a divorce he would make advances towards them. DW was scared of Mr. Pittman:

**I am terrified when I go into a room by myself that he’s going to be in there hiding. And I am so afraid that I look under the beds, and I look in the bathroom, and I turn on all the lights, and I make sure I find a room that has a lock on it so I can make sure I could actually have a rest with peace of mind that nothing is going to happen to me**

(Tab 12, Transcript, pp. 235-236).

DW testified, “I’ve had nightmares. I’ve had so many nightmares. I’ve had nightmares that he’s come to work and he’s just taken a gun and just started shooting. And I’ve had nightmares that he’s grabbed me in a room...” (Tab 12, Transcript p. 236).

## ISSUES AND ANALYSIS

The Discipline Committee's obligation for this stage of the hearing is to determine if the Investigation Committee has proven the charges of professional misconduct against Mr. Pittman as outlined in the Notice of Hearing. The Discipline Committee applied the following analysis:

1. Ascertain the facts pertaining to each charge.
2. Determine if the facts, as found, constitute proof of the charges.
3. Determine if the charges, as proven, constitute professional misconduct.

Mr. Pittman did not appear at this discipline hearing. Further, Mr. Pittman did not appear at the earlier hearing either and as such, none of the witnesses were cross-examined. However, Mr. Pittman made a deliberate choice not to appear and participate. The evidence given by the witnesses at the earlier testimony was all given under oath. The Discipline Committee accepts and relies on their evidence as presented. Further, the Discipline Committee analyzed the evidence within each Affidavit separately and as a collective whole.

The Investigation Committee has the responsibility to prove discipline charges based on a balance of probabilities. This is the case regardless of whether the nurse appears at a hearing or not.

The Discipline Committee recognizes that many of the allegations against Mr. Pittman are serious but that does not change the standard of proof, which is the balance of probabilities. The Committee takes guidance from this passage from Casey on *The Regulation of Professions in Canada* at page 11-61:

**In 2008 the Supreme Court of Canada directly addressed the issue of the standard of proof in civil cases where the allegations against an individual are particularly grave. The Court expressly rejected various approaches to the standard of proof including the following: the criminal standard where the allegations are particularly serious; an intermediate standard between the criminal and the civil standard; the 'clear, convincing and cogent' approach often utilized in professional discipline cases; scrutinizing the evidence with**

**greater care where the allegations are serious, and requiring stronger evidence where the event is improbable. The Court held that it was time to say, once and for all, that in Canada there is only one civil standard and that is proof on a balance of probabilities. The only practical way to reach a factual determination in a civil case is to decide whether it is more likely than not that the event occurred. Evidence must always be scrutinized with care by a trier of fact and evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test but there is no need for a different standard of proof where the allegations are particularly serious.**

The Notice of Hearing consists of one charge of professional misconduct with the essence of it being that Mr. Pittman engaged in “sexually inappropriate conduct, verbally and physically, towards a number of (your) co-workers both at the workplace and outside the work environment”. There are fifteen (15) examples or particulars of that and the Discipline Committee sees it appropriate to treat each particular count or aspect of the charge requiring proof.

- 1. While at work you asked a co-worker if she “sold anything for erections”, indicating to her that you have had problems in this area and had not had sex with your wife for six years.**

The Committee accepts the testimony of SH as provided in her Affidavit. SH’s Affidavit is indirectly corroborated by other witnesses such as DW, who also made reference that Mr. Pittman discussed his sex life with his wife (Tab 6, Transcript pp. 60-61, 228).

The Discipline Committee accepts the evidence as presented.

- 2. While at work you hugged and touched co-workers in ways that made them uncomfortable.**

Many of the Affidavits suggest that Mr. Pittman had unwanted physical contact with numerous workers on the unit. This was an ongoing theme in the Affidavits.

The Discipline Committee accepts the evidence as presented.

**3. While at work you used sexually explicit language directed towards co-workers.**

The Discipline Committee's summary of the Affidavit evidence illustrates this particular.

The Discipline Committee accepts the evidence as presented.

**4. You attended a co-worker's place of employment (tanning spa) and while there stood naked in front of this co-worker and masturbated. You asked the co-worker if she "liked what she saw" and indicated that you "shaved down there" for her, pointing to your penis area. You also grabbed the co-worker's hand and pulled it towards your mid-section at which point she pulled away and left the room. Following the co-worker leaving the room, you ejaculated on the tanning bed, which she was required to clean.**

The Committee accepts the evidence of SH. The description provided in her testimony was detailed and believable.

The Discipline Committee accepts the evidence as presented.

**5. While at work you were observed by a co-worker touching the breasts of a patient while assisting this patient getting out of bed.**

In the Affidavit filed by SH, she indicated that there were no other witnesses present to verify if Mr. Pittman did in fact touch the breasts of a patient in a sexually explicit way. Further, no other Affidavit presented any broader concerns with Mr. Pittman sexually or inappropriately touching any of his patients.

The Discipline Committee finds that this particular has not been made out on the evidence and it is unsubstantiated.

**6. While at work you informed a female co-worker that her "butt looked good in her pants".**

DW stated in her testimony that Mr. Pittman stated, “You have an ass in those jeans. It looks really good” (Tab 12, Transcript p. 225).

The Discipline Committee finds that these comments do constitute professional misconduct within the meaning of *The Act*. Given the sexual overtones, context and overall inappropriate discussions that Mr. Pittman often had with co-workers, including DW in previous conversations, further demonstrates his lack of decorum as a professional. According to the Canadian Nurses Association, *Code of Ethics (2008)*, “Nurses refrain from judging, labelling, demeaning, stigmatizing and humiliating behaviours toward persons receiving care, other health-care professionals and each other”.

The Discipline Committee accepts the evidence as presented.

7. **While at work you asked a female co-worker if she was “having unprotected sex with her boyfriend” and asked if her boyfriend “was circumcised”.**

The Committee notes the evidence of DW (Tab 12, Transcript p. 217) and accepts the evidence as presented.

8. **While at work you provided a co-worker with your cell number and invited her to watch you get “waxed”.**

The Committee notes the evidence of DW (Tab 12, Transcript p. 215) and accepts the evidence as presented.

9. **While at work you massaged a co-worker’s back and neck without asking permission, to which the co-worker pushed your hands away.**

The Committee accepts the evidence of CP (Tab 10, Transcript p. 167-168), the evidence of DW (Tab 12, Transcript p. 228) and the evidence of SJ (Tab 9, p. 145 and 148) where these witnesses stated that the physical contact was not permitted.

There were instances in the testimony of DB (Tab 9, Transcript p. 127) that physical contact (massages) appeared to be invited by staff. This, however, does not negate Mr. Pittman's responsibility to seek individual permission prior to initiating physical contact.

The Discipline Committee accepts the evidence as presented.

**10. While at work you came up behind a co-worker and pushed your chest and body up against her back.**

The Committee notes the evidence of DB (Tab 8, Transcript p. 125) and the evidence of JK (Tab 7, Transcript p. 106).

The Discipline Committee accepts the evidence as presented.

**11. While at work you stood in doorways and using your body prevented co-workers from leaving the room when they attempted to do so.**

The Committee reviewed the evidence submitted by JK (Tab 7, Transcript p. 108) and LL (Tab 11, Transcript pp. 193 and 195). The evidence tendered is not compelling that either witness was in fact trapped by Mr. Pittman from leaving any room when they attempted to do so.

The Discipline Committee finds that this particular is unsubstantiated.

**12. While at work you touched a co-worker in the crotch area over his clothing.**

The Committee notes the evidence of SJ (Tab 9, Transcript p. 144).

The Discipline Committee accepts the evidence as presented.

- 13. While at work you walked up behind a co-worker, reached around her waist with your left hand and brushed your hand down along her inner thigh and crotch area.**

The Committee notes the evidence of JK (Tab 7, Transcript p. 106).

The Discipline Committee accepts the evidence as presented.

- 14. While at work you brushed a co-worker's arms and attempted to touch her breasts.**

The Committee notes the evidence of JK (Tab 7, Transcript pp. 111, 113-114).

The Discipline Committee accepts the evidence as presented.

- 15. While at work you walked up behind a co-worker, wrapped your arms around her breast area and began to grope her while pulling her towards you.**

The Committee notes the evidence of DB (Tab 8, Transcript p. 125) and DW (Tab 12, Transcript p. 219).

The Discipline Committee accepts the evidence as presented.

The Discipline Committee finds that the Investigation Committee has proven particulars 1 through 4 inclusive, 6 through 10 inclusive and 12 through 15 inclusive. The Discipline Committee finds that particulars 5 and 11 are unsubstantiated and are dismissed.

The next issue is whether the facts as proven constitute professional misconduct and/or a breach of the various provisions of the *Code of Ethics, 2008* and Standards as set out in the Notice of Hearing.

Counsel for the Investigation Committee filed a brief, identifying two significant legal issues that arise in this case. Counsel has framed those issues as follows:

1. Does the conduct that occurred away from the work site properly form the basis for a finding of professional misconduct?
2. Does his (Mr. Pittman's) conduct regarding harassment and sexual harassment constitute professional misconduct contrary to section 26 of *The Registered Nurses Act, 1988*?

The Discipline Committee found this brief very helpful.

On the first issue, the Discipline Committee concludes that off job conduct can and should form the basis of a professional misconduct finding. The Discipline Committee cites with approval this passage from Casey on *The Regulation of Professions in Canada* at page 13.4:

**Conduct during the course of performing his or her professional duties may clearly be the subject of discipline by his or her professional organization. A more difficult issue is the extent to which a professional body may seek to regulate and discipline for conduct of one of its members not in the course of his or her professional duties. A professional may be disciplined for conduct that impairs the ability of the professional to properly carry out his or her professional duty. In *Cwinn v. Law Society of Upper Canada*, a solicitor hired a number of young girls to assist as grooms in the training, riding and showing of horses at horse shows in Canada and the United States. The solicitor seduced these young girls after having established a relationship of dependence, trust and confidence with them, and in one instance was convicted in the United States for the offence of transporting a girl for immoral purpose. Convocation of the Law Society of Upper Canada ordered disbarment for conduct unbecoming a barrister and solicitor. Counsel for the solicitor argued that although the conduct may have been reprehensible, it should not form the basis of discipline from the Law Society since it was not connected with the practice of law. The court rejected this argument and concluded that disbarment was appropriate because “. . . his conduct was not only reprehensible, but that it does not seriously reflect upon and shatter his professional integrity to the point where the protection of the public is involved. In my opinion, therefore Convocation was correct in finding the solicitor guilty of conduct unbecoming a barrister and solicitor.”**

Based on the evidence, the Discipline Committee finds that Mr. Pittman engaged in a campaign of harassment and sexual harassment that commenced at work and then escalated to the incident

at the tanning salon involving SH and the phone call at home to DW. The fact is most of Mr. Pittman's conduct occurred on the job. To the extent his actions occurred outside the workplace, those actions were simply an extension of conduct that occurred on the job with colleagues.

On the second question as to whether sexual harassment is professional misconduct, counsel for the Investigation Committee cited a number of professional discipline cases where sexual harassment on the part of a professional was found to be sanctionable by the disciplinary body. Some of these cases included consensual sexual relationships with a client and even in those cases, the disciplinary body found the professional guilty of misconduct.

The Discipline Committee accepts and relies on these cases:

1. *Re: Zuker* (1999) CanLII 18536 (ON LST)
2. *Law Society of Manitoba v Davis* (2001) MBL 4
3. *Law Society of Upper Canada v Matthew Joseal Igbinosun*
4. *Law Society of Upper Canada v Neinstein*

In a text called "Sexual Harassment in the Workplace" (2d ed. Butterworths, 1992), the author described sexual harassment as follows at page 8:

**The identified description of 'sexual harassment' appear to indicate that such behavior can be divided into two categories: sexual coercion and sexual annoyance. Sexual coercion is sexual harassment that results in some direct consequence to the worker's employment status or some gain or loss of tangible job benefits . . .**

**Sexual annoyance, the second type of sexual harassment, is sexually related conduct that is hostile, intimidating or offensive to the employee but nonetheless has no direct link to any tangible job benefit or harm. Rather, this annoying conduct creates a bothersome work environment and effectively makes the worker's willingness to endure that environment a term or condition of employment.**

**The second category contains two subgroups. Sometimes an employee is subject to persistent requests for sexual favours and persistently refuses. Although that refusal does not cause any loss in job benefits, the very persistence of the demands creates an offensive work environment, which the employee should not be compelled to**

**endure. The second subgroup encompasses all other conduct of a sexual nature that demeans or humiliates the person addressed and in that way also creates an offensive work environment. This includes sexual taunts, lewd or provocative comments and gestures, and sexually offensive physical contact.**

This passage describes Mr. Pittman's conduct. In almost all of the cases Mr. Pittman focused his unwanted comments and actions towards those who were in positions subordinate to him – a unit clerk, a nursing student, licensed practical nurses and special care aides. While there was no evidence that Mr. Pittman threatened job consequences to these individuals, many of them expressed fear and reluctance to report Mr. Pittman given his standing in the workplace.

The Discipline Committee accepts without hesitation that Mr. Pittman engaged in a campaign of sexual harassment and that this conduct amounts to professional misconduct as that term is defined in section 26(1) of *The Act*.

## **SECOND STAGE HEARING**

This Discipline Committee will now reconvene to hear submissions regarding penalty and disposition, pursuant to section 31 of *The Act*. The Discipline Committee hereby directs the Investigation Committee to personally serve Mr. Pittman with a Notice as to the date, time and place of the penalty hearing. The Notice should also set out the proposed Order the Investigation Committee is seeking pursuant to section 31 of *The Act*. Mr. Pittman should be given at least 14 days' notice of the penalty hearing.



Date: November 21, 2014

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Lynda Kushnir Pekar, RN, Chairperson  
*and on behalf of the Members of the  
 Discipline Committee*  
 Christopher Etcheverry, RN  
 Elaine Herasymuik, RN  
 Janna Willis, RN  
 Valerie Pearson, Public Representative