

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF **FREDDIE LORENZANA**, R.N. REGISTRATION **#79,406**

AS A RESULT OF A HEARING HELD BEFORE

THE HEARING TRIBUNAL

OF THE

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA

11120 178 STREET

EDMONTON, ALBERTA

ON

OCTOBER 19 & NOVEMBER 20, 2020

## **INTRODUCTION**

A virtual hearing was held on October 19 and November 20, 2020 via WebEx videoconference by the Hearing Tribunal of the College and Association of Registered Nurses (“CARNA”) to hear a complaint against Freddie Lorenzana, R.N. Registration #79,406.

Those present at the hearing were:

**a. Hearing Tribunal Members:**

Grace Brittain, Chairperson  
Tracy Cowden  
Claire Mills  
Nancy Brook, Public Representative

**b. Independent Legal Counsel to the Hearing Tribunal:**

Mary Marshall  
James Hart

**c. CARNA Representative:**

Vita Wensel, Conduct Counsel

**d. Regulated Member Under Investigation:**

Freddie Lorenzana (sometimes hereinafter referred to as “the Regulated Member”)

**e. Regulated Member’s Labour Relations Officers (present on November 20, 2020):**

Lucy Anderson, Labour Relations Officer of the United Nurses of Alberta  
Laura Bowen, Labour Relations Officer of the United Nurses of Alberta

## **PRELIMINARY MATTERS:**

On October 19, 2020 the Regulated Member made a preliminary application. The Regulated Member made an application for an adjournment to obtain the assistance of a United Nurses of Alberta representative at the hearing. The application for an adjournment was opposed by Conduct Counsel. The Regulated Member had been contacted numerous times by CARNA representatives as set out in Exhibit #1 and Exhibit #2, and he did not respond. As a result, this hearing was scheduled. There were a number of witnesses that had made themselves available for the hearing. The Regulated Member made contact with a CARNA representative just prior to the hearing on October 19, 2020 and stated that he planned to attend. The adjournment was granted to November 20, 2020 peremptory on the Regulated Member with a number of interim steps that the Regulated Member was required to take prior to the resumption of the hearing.

At the resumption of the hearing on November 20, 2020, the Regulated Member was represented by Labour Relations Officers.

Conduct Counsel and the Labour Relations Officers for the Regulated Member confirmed that there were no objections to the composition of the Hearing Tribunal or to the Hearing Tribunal's jurisdiction to proceed with the hearing. No preliminary applications were made.

The Chairperson noted that pursuant to section 78 of the *Health Professions Act*, RSA 2000, c. H-7 ("HPA"), the hearing was open to the public. No application was made to close the hearing.

Conduct Counsel confirmed that the matter was proceeding by Agreement.

## **ALLEGATIONS AND ADMISSION**

The allegations in the Notice to Attend are as follows:

While employed as a Registered Nurse (RN) with JBS Food Canada ULC – Brooks Beef, Brooks, Alberta, your practice fell below the standard expected of an RN when:

1. On or between June 3, 2019 and September 5, 2019, you worked at JBS Food Canada ULC – Brooks Beef as a Registered Nurse in contravention of a CARNA Hearing Tribunal Order dated December 19, 2018 (the "Order") (as amended by the motion of the Hearing Tribunal of March 18, 2019), when you:
  - a. Failed to obtain prior approval of your proposed practice setting from a CARNA Hearing Tribunal, as required by paragraph 3 of the Order and the March 18, 2019 Motion of the Hearing Tribunal;
  - b. Failed to provide a letter to the Hearing Tribunal from your prospective employer:
    - i. confirming awareness of the Decision, including the admissions, findings and Order;
    - ii. confirming awareness of the March 18, 2019 Motion of the Hearing Tribunal; and
    - iii. confirming that the prospective employer would provide the necessary performance evaluations;
2. On or about May 24, 2019, you failed to be forthcoming with your prospective employer when you:
  - a. Failed to fully or accurately explain the details of your CARNA hearing and Order, and related unprofessional conduct;
  - b. Failed to fully and accurately explain your reasons for leaving your prior employment;
3. On or about May 24, 2019, you intentionally mislead your potential employer when you provided an outdated, inaccurate and unencumbered CARNA practice permit, dated September 12, 2018 to apply for your position when you knew it had been replaced with a newer permit, with conditions, dated December 20, 2018;
4. On or about January 20, 2020, you failed to complete coursework as required by the Order when you failed to complete NURS 326 – Health Assessment, from Athabasca University, by January 20, 2020.

The Regulated Member has admitted to the conduct in the allegations in the Agreed Statement of Facts and Liability (Exhibit # 4).

**EXHIBITS**

The following documents were entered as Exhibits:

<b>NUMBER</b>	<b>DESCRIPTION</b>
<b>Exhibit #1:</b>	Affidavit of Service of [staff member 1], including Exhibits A through I and Certificate
Exhibit A	Letter dated March 9, 2020 from CARNA to F. Lorenzana Re: Referral to Hearing
Exhibit B	Confirmation Certificate from Canada Post confirming that the Regulated Member picked up the Registered Mail March 11, 2020
Exhibit C	Letter dated June 16, 2020 from CARNA to F. Lorenzana Re: Hearing of the Hearing Tribunal Enclosing Notice to Attend
Exhibit D	Typed note stating the item was available for pickup on June 22, 2020 at 10:40 a.m.
Exhibit E	Email dated September 1, 2020 from [staff member 2] to F. Lorenzana Re Complaint
Exhibit F	Amended Notice to Attend a Hearing dated September 4, 2020
Exhibit G	Typed note stating the item was available for pickup on September 11, 2020 at 10:53 a.m.
Exhibit H	Email dated September 17, 2020 from [staff member 3], copying [staff member 2], to F. Lorenzana Re CARNA Complaint
Exhibit I	Email dated September 24, 2020 from [staff member 2] to F. Lorenzana Re CARNA Complaint
<b>Exhibit #2:</b>	Affidavit of [staff member 3] Including Exhibits A through D and Certificate
Exhibit A	Email sent October 9, 2020 from [staff member 3] to the Regulated Member, copying [staff member 2]
Exhibit B	Email sent October 9, 2020 from [staff member 4] to [staff member 3] and copying [staff member 2] providing the Canada Post Tracking Number of the Registered Mail being sent to the Regulated Member
Exhibit C	Email sent October 14, 2020 from [staff member 3] to the Regulated Member, copying [staff member 2] enclosing an estimated Statement of Costs
Exhibit D	Confirmation Certificate from Canada Post confirming that the Regulated Member picked up the Registered Mail at 1:05 p.m. on October 15, 2020
<b>Exhibit #3:</b>	Book of Authorities
Tab 1	CARNA Practice Standards for Regulated Members ("Practice Standards")

<b>NUMBER</b>	<b>DESCRIPTION</b>
Tab 2	2017 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses ("Code of Ethics")
Tab 3	Excerpt from <i>Jaswal v. Newfoundland Medical Board</i> , (1996), 42 Admin L.R. (2d) 233 ("Jaswal")
Tab 4	<i>Wright v College and Association of Registered Nurses of Alberta</i> , 2012 ABCA 267.
Tab 5	<i>Zuk v Alberta Dental Association and College</i> , 2018 ABCA 270.
Tab 6	<i>KC v College of Physical Therapists of Alberta</i> , 1999 ABCA 253.
<b>Exhibit #4:</b>	Agreed Statement of Facts and Liability between Freddie Lorenzana, #79,406 and Vita Wensel, Conduct Counsel
<b>Exhibit #5:</b>	Appendices (A through J) of the Agreed Statement of Facts
Appendix A	CV of the Regulated Member
Appendix B	Letter to the Regulated Member dated March 9, 2020 referring the matter to hearing enclosing a Notice to Attend a Hearing, plus the Canada Post delivery certificate
Appendix C	Letter to the Regulated Member dated June 16, 2020 enclosing a Notice to Attend a Hearing, and a note stating the item was available for pickup on June 22, 2020 at 10:40 a.m.
Appendix D	Amended Notice to Attend a Hearing dated September 4, 2020, and a note stating the item was available for pickup on September 11, 2020 at 10:53 a.m.
Appendix E	Practice Standards for Regulated Members Effective April 2013 and the 2017 Edition Code of Ethics for Registered Nurses
Appendix F	JBS Canada Occupational Health Department Code of Ethics, Medical Policy, Code of Conduct, Acknowledgement of Receipt and Understanding of the Company's Code of Conduct & Conflict of Interest Policy
Appendix G	CARNA Decision of the Hearing Tribunal Re Conduct of FL dated December 19, 2018
Appendix H	Excerpt from Minutes of the Hearing Tribunal of June 20, 2019 and March 18, 2019
Appendix I	JBS Canada Conditional Offer of Employment dated June 3, 2019
Appendix J	Photocopy of the Regulated Member's 2019 Practice Permit with an Expiry date of 30-Sep-2019
<b>Exhibit #6:</b>	Joint Recommendations on Sanction
<b>Exhibit #7:</b>	Finalized Estimated Statement of Costs Dated November 17, 2020

## **SUBMISSIONS ON THE ALLEGATIONS**

### **Submissions by Conduct Counsel:**

Conduct Counsel made brief submissions.

Conduct Counsel submitted that the following provisions of the *Health Professions Act* apply: Sections 1(1)(pp)(i), (ii), (iv), (v), (viii) and (xii).

Conduct Counsel submitted that the following provisions of the CARNA Practice Standards for Regulated Members (“Practice Standards”) apply:

Practice Standards: 1.1, 1.2, 2.1, 2.3, 2.4, 3.1, 5.2 and 5.3.

Conduct Counsel further submitted the following provisions of the 2017 Edition of the Canadian Nurses Association Code of Ethics for Registered Nurses (“Code of Ethics”) apply:

Responsibilities: A1 and A4; G1, G2 and G4.

Conduct Counsel noted there may be other applicable provisions, but that in her view, these were applicable. Conduct Counsel reviewed the Agreed Statement of Facts and Liability (Exhibit #4).

### **Submissions by the Labour Relations Officers**

The Regulated Member’s Labour Relations Officers had no further submissions.

## **DECISION AND REASONS OF THE HEARING TRIBUNAL ON THE ALLEGATIONS**

The Hearing Tribunal adjourned to review and consider the materials and submissions. The Hearing Tribunal reconvened and asked the parties for submissions on the applicability of Practice Standard 2.1. Conduct Counsel and the Labour Relations Officers indicated that there were no further submissions.

The Hearing Tribunal finds that the allegations admitted to by the Regulated Member are proven. Based on the admission of the Regulated Member, the Hearing Tribunal finds that the Regulated Member worked as a Registered Nurse between June 3, 2019 and September 5, 2019 in contravention of a Hearing Tribunal Order dated March 18, 2019; failed to be forthcoming with a prospective employer by failing to fully or accurately explain the details of the CARNA hearing and Order and related professional conduct, and the reasons for leaving his prior employment; intentionally misled the potential employer by providing an outdated and inaccurate CARNA practice permit; and failed to complete required coursework.

The Hearing Tribunal finds that the proven conduct constitutes unprofessional conduct pursuant to section 1(1)(pp)(i)(ii)(iv)(v)(viii) and (xii) of the HPA, which state:

- 1(1) In this Act,
  - (pp) “unprofessional conduct” means one or more of the following, whether or not it is disgraceful or dishonourable:
    - (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;

- (ii) contravention of this Act, a code of ethics or standards of practice;
- ...
- (iv) representing or holding out that a person was a regulated member and in good standing while the person's registration or practice permit was suspended or cancelled;
- (v) representing or holding out that person's registration or practice permit is not subject to conditions when it is or misrepresenting the conditions;
- ...
- (viii) contravening an order under Part 4, conditions imposed on a practice permit or a direction under section 118(4);
- ...
- (xii) conduct that harms the integrity of the regulated profession;

The Hearing Tribunal finds that the Regulated Member breached the following provisions of the Practice Standards: 1.1, 1.2, 2.3, 2.4, 3.1, 5.2 and 5.3 as follows:

#### **Standard One: Responsibility and Accountability**

The nurse is personally responsible and accountable for their nursing practice and conduct.

##### **Indicators**

- 1.1** The nurse is accountable at all times for their own actions.
- 1.2** The nurse follows current legislation, standards and policies relevant to their practice setting.

#### **Standard Two: Knowledge-Based Practice**

The nurse continually acquires and applies knowledge and skills to provide competent, evidence-informed nursing care and service.

##### **Indicators**

- 2.3** The nurse uses critical inquiry in collecting and interpreting data, planning, implementing and evaluating all aspects of their nursing practice.
- 2.4** The nurse exercises reasonable judgment and sets justifiable priorities in practice.

### **Standard Three: Ethical Practice**

The nurse complies with the Code of Ethics adopted by the Council in accordance with Section 133 of HPA and CARNA bylaws (CARNA, 2012).

#### **Indicators**

**3.1** The nurse practices with honesty, integrity and respect.

### **Standard Five: Self-Regulation**

The nurse fulfills the professional obligations related to self-regulation.

#### **Indicators**

**5.2** The nurse follows all current and relevant legislation and regulations.

**5.3** The nurse follows policies relevant to the profession as described in CARNA standards, guidelines and position statements.

The Hearing Tribunal finds that the Regulated Member breached the following provisions of the Code of Ethics: Responsibilities A1, A4; Responsibilities G1, G2, G4 as follows:

#### **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).

#### **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.
2. Nurses are honest and practise with integrity in all of their professional interactions. Nurses represent themselves clearly with respect to name, title and role.



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).

The Regulated Member is accountable for his practice and must practise in accordance with the Practice Standards and Code of Ethics. The Hearing Tribunal finds that the Regulated Member's actions were inconsistent with the Code of Ethics which expects all nurses to recognize the privilege of self-regulation and exhibit the responsible behaviours that are seen to merit this privilege. The actions of the Regulated Member have a significant impact on the ability of the College to protect the public from unskilled practice or unethical behaviour which is a fundamental principle for the independent regulation of the profession. The Regulated Member is responsible for building trustworthy relationships, and complying with legislation governing nurses. The actions of the Regulated Member breached that trust. The breaches of the Practice Standards and the Code of Ethics are serious and constitute unprofessional conduct pursuant to section 1(1)(pp)(i)(ii)(iv)(v)(viii) and (xii) of the HPA.

### **SUBMISSIONS ON SANCTION**

The Hearing Tribunal heard submissions on the appropriate sanction.

#### **Submissions by Conduct Counsel:**

Conduct Counsel noted there was a joint proposal on sanction and reviewed the Joint Recommendations on Sanction (Exhibit #6). Conduct Counsel reviewed the factors in the decision of *Jaswal v. Newfoundland Medical Board* and how those factors applied to the present case.

1. *The nature and gravity of the proven allegations:*

The conduct was serious and harmful to the reputation of CARNA and the nursing profession and the proposed sanction speaks to the gravity of the conduct. The Regulated Member exhibited a serious disregard of the Hearing Tribunal Order. He entered into a workplace without advising CARNA or his employer about the Hearing Tribunal Order and restrictions on his practice permit. The Regulated Member did this for approximately 95 days and, as such, the conduct occurred over an extensive period of time.

2. *The age and experience of the member:*

The Regulated Member registered with CARNA in 2013. He has not worked since September 2019.

3. *The previous character of the Regulated Member:*

The Regulated Member's previous order focused on workplace issues in 2017 that concerned skill and judgment, and are not the same type of issues that are under consideration in this hearing.

4. *The age and mental condition of the offended patient:*

There are no patients involved.

5. *The number of times the offence was proven to have occurred:*

The behaviour occurred for approximately 95 days.

6. *The role of the registered nurse in acknowledging what occurred:*

The hearing is proceeding by way of consent.

7. *Whether the member has already suffered other serious financial or other penalties:*

The Regulated Member has suffered additional consequences. He was terminated from his employment and hasn't worked as a Registered Nurse since his termination.

8. *The impact on the offended patient:*

There are no patients involved.

9. *The presence or absence of any mitigating factors:*

The Regulated Member has accepted responsibility for his behaviour, and the hearing is proceeding by way of consent.

10. *The need to promote specific and general deterrence:*

Specific deterrence is required in this situation so that the Regulated Member does not disobey any future CARNA orders. The reprimand speaks to specific deterrence, and there is a significant fine. General deterrence is also important and professionals in the nursing community must understand that they have to be accountable when there is a Hearing Tribunal order. The fine and reprimand speak to general deterrence as well, along with the performance evaluation component of the proposed sanction. When a member disobeys a Hearing Tribunal order, remediation will be required upon return to work to ensure that the conduct does not happen again.

11. *The need to maintain public confidence:*

The public must be confident that nurses will not be allowed to practise without a licence.

12. *Degree to which offensive conduct is outside the range of permitted conduct:*

Members of CARNA must recognize the importance of being governed by the College and any orders of the Hearing Tribunal. Without this governance, there is no way to assure the public and maintain the integrity of the profession.

Conduct Counsel submitted that there is agreement on a costs award of \$5,000. The hearing was originally scheduled for two days. Exhibit #7 shows the finalized estimated statement of costs dated November 17, 2020. The Hearing Tribunal has jurisdiction to make a costs award under section 82(1)(j) of the *Health Professions Act*. The Hearing Tribunal has discretion as to the amount, and it must be a reasonable amount that is not crushing financially on the Regulated Member. Conduct Counsel reviewed the following case law in Exhibit #3, and submitted that costs are not considered a penalty.

Wright v College and Association of Registered Nurses of Alberta (Appeals Committee), 2012 ABCA 267, para. 75:

*[75] Professional disciplinary bodies have a wide discretion over costs, and so long as the decision is justifiable, transparent and intelligible, judicial intervention is not warranted. The tribunals below were aware that they were not required to award the College any costs, although they did have the jurisdiction under the Health Professions Act to award full indemnity costs. They gave consideration to, but rejected, the argument that because these were test cases, the general membership should bear the expense. They were sensitive to the fact that a costs award should not be crushing. The costs awards were reasonable, and variation is not warranted.*

Zuk v Alberta Dental Association and College, 2018 ABCA 270, para. 194:

*[194] Finally, we see no reason to think that the costs orders in these proceedings will deter other members of the profession from defending themselves against disciplinary allegations. It is well established that costs orders in the disciplinary process must be sensitive to a member's financial circumstances, that costs orders delivering a "crushing financial blow" must be scrutinized carefully and that a tribunal should consider whether a large costs award may deny "an investigated person a fair chance to dispute allegations of professional misconduct": **KC v College of Physical Therapists of Alberta**, 1999 ABCA 253 at para 94, 244 AR 28. In this case, nothing indicates that the prospects of a large costs award deterred Dr. Zuk from taking steps in his own defence or that the costs orders made against him will be crushing. But a similar costs order imposed on someone else could well have both effects. Costs orders, like sanctions for misconduct, must be individualized to the circumstances of the investigated person.*

K. C. v. College of Physical Therapists of Alberta, 1999 ABCA 253, para. 94:

*[94] The fact that the **Act** and **Regulation** permit the recovery of all hearing and appeal costs does not mean that they must be ordered in every case. Costs are discretionary, with the discretion to be exercised judicially. Costs awards of disciplinary bodies are subject to judicial review on a standard of reasonableness: **Brand v. College of Physicians and Surgeons** (1990), 86 Sask. R. 18 at 24 (Sask. C.A.). Costs awarded on a full indemnity basis should not be the default, nor, in the case of mixed success, should costs be a straight mathematical calculation based on the number of convictions divided by the number of charges. In addition to success or failure, a discipline committee awarding costs must consider such factors as the seriousness of the charges, the conduct of the parties and the reasonableness of the amounts. Costs are not a penalty, and should not be awarded on that basis. When the magnitude of a costs award delivers a crushing financial blow, it deserves careful scrutiny: **Nassar v. College of Physicians of Surgeons (Manitoba)** (1994), 96 Man. R. (2d) 141 (Q.B.), affirmed [1995] M.J. No. 548, (C.A.), online: QL (MJ). If costs awarded routinely are exorbitant they may deny an investigated person a fair chance to dispute allegations of professional misconduct: **Lambert v. College of Physicians and Surgeons (Saskatchewan)** (1992), 100 Sask. R. 203 at 204-05 (Sask. C.A.).*

The Hearing Tribunal should consider whether the proposed costs award is reasonable and fair in the circumstances. A Regulated Member has a duty to respond to the regulator in order to ensure that CARNA can perform its mandate. The Regulated Member did not respond to communications from CARNA between March 2020 and October 2020. A costs award should not deter others from exercising their right to a hearing.

**Questions from the Hearing Tribunal:**

The Chair asked about a payment plan for the Regulated Member to pay costs. There is a payment plan for the fine. Conduct Counsel submitted that the fine is a sanction. The payment of any costs is a discretionary part of the Order. A payment plan could be arranged between the Regulated Member and the Complaints Director.

**Submissions by the Labour Relations Officer for the Regulated Member:**

The Labour Relations Officer submitted that the Regulated Member will be suffering financial hardship, and that he will be open to the negotiation of a payment plan for costs.

**DECISION AND REASONS OF THE HEARING TRIBUNAL ON SANCTION**

The Hearing Tribunal has carefully considered the joint submissions on sanction and costs, and the submissions of the parties. The Hearing Tribunal has considered the factors noted in *Jaswal v. Newfoundland Medical Board*. The Hearing Tribunal accepts the joint recommended sanction and costs. The joint recommendations take into account the nature of the findings of the Hearing Tribunal. They also address the issues that brought this Regulated Member before the Hearing Tribunal. The Hearing Tribunal finds that this recommended sanction appropriately considers the factors in *Jaswal*. The Hearing Tribunal finds that the recommended sanction protects the public interest and is reasonable.

The Regulated Member should take the comments in the written decision as well as the concerns expressed by the Hearing Tribunal with respect to his conduct as his reprimand. In addition, the Regulated Member should consider his experiences in dealing with this complaint before this Hearing Tribunal and CARNA, and his experiences with his former employer, as well as the joint submissions on sanction and costs, as a reminder of how important it is to practise in accordance with the Practice Standards and Code of Ethics, and comply with any Orders of the Hearing Tribunal. The nursing profession occupies a position of trust, and this needs to be maintained. The conduct of the Regulated Member undermines that trust.

In making the costs award, the Hearing Tribunal considered the outcome of the hearing, the reasons the complaint arose in the first place, the financial burden on the College and the Regulated Member, and the way that the defence was conducted. The complaint arose because the Regulated Member made a decision to contravene an Order of the Hearing Tribunal. Further, the Regulated Member did not respond to correspondence from CARNA regarding the contravention of the Order until just prior to the commencement of the hearing. The Hearing Tribunal also considered that the Regulated Member ultimately admitted to the allegations in the Notice of Hearing. The Hearing Tribunal heard evidence as to the actual costs borne by the College. The Hearing Tribunal did not hear any evidence that the amount will be crushing financially on the Regulated Member, or serve as a deterrent to others who want to have a hearing to dispute allegations. It is fair and reasonable that the Regulated Member pay a portion of the costs, which are otherwise borne by the profession as a whole.

## ORDER OF THE HEARING TRIBUNAL

The Hearing Tribunal orders that:

1. The Regulated Member shall receive a reprimand for unprofessional conduct.
2. The Regulated Member shall pay a fine in the amount of **\$2,000.00** whereby such fine is paid via MyCARNA in the following installments:
  - a. \$500.00 due on **April 2, 2021**;
  - b. \$500.00 due on **August 6, 2021**;
  - c. \$500.00 due on **November 5, 2021**; and
  - d. \$500.00 due on **March 4, 2022**.
3. Prior to next commencing employment, or otherwise performing any type of nursing practice hours, as a regulated member of CARNA (Registered Nurse, Nurse Practitioner, Temporary Permit Holder), the Regulated Member shall complete any outstanding coursework from the Order dated December 19, 2018.
4. The Regulated Member must commence employment within **six (6) months** of this Order. Upon written request by the Regulated Member, this timeline may be extended at the unfettered discretion of the Complaints Director, acting reasonably.
5. Prior to next commencing employment, or otherwise performing any type of nursing practice hours, as a regulated member of CARNA (Registered Nurse, Nurse Practitioner, Temporary Permit Holder), the Regulated Member shall:
  - a. provide to the Complaints Director, a letter from their prospective employer that **confirms**, in writing:
    - i. The anticipated employment setting and workplace (the "**Employment Setting**").
    - ii. The RN manager, or such other manager, at the Employment Setting (the "**Supervisor**"). There may be more than one supervisor for the purposes of the Performance Evaluations, and all supervisors must be Registered Nurses or Nurse Practitioners.
    - iii. The Supervisor received and reviewed this Order and the Regulated Member's Order from December 19, 2018.
    - iv. The Supervisor received and reviewed a copy of the Regulated Member's active practice permit with CARNA and has verified it on CARNA's website.
    - v. The Supervisor agrees to provide to CARNA any outstanding Performance Evaluations from the Regulated Member's Order from December 19, 2018.
    - vi. After successful completion of any outstanding Performance Evaluations from the Regulated Member's Order from December 19, 2018, the Supervisor agrees to provide to CARNA **three (3) Performance Evaluations** of **250** nursing practice hours each, covering a total of **750** nursing practice hours and about the Regulated Member on the terms set out in the paragraphs below and in the form attached as "Schedule A" to this Order (the "**Performance Evaluation Form**").

6. The Complaints Director must approve the Employment Setting and the Supervisor(s) before the Member can commence practicing as a Regulated Member of CARNA.
7. The Regulated Member shall provide to the Complaints Director **three (3) Performance Evaluations** from their Supervisor following the terms and conditions in this Order.
8. The terms of the **Performance Evaluations** are as follows:
  - a. The fact that each of these terms of the Performance Evaluations has been complied with will be mentioned in the Performance Evaluation.
  - b. The Supervisor will personally observe and obtain feedback from Registered Nurse(s) who are on the same unit for the shifts that the Regulated Member is working who have ample opportunities to observe all aspects of the Regulated Member's nursing practice. The Supervisor will also obtain feedback from other members of the health care team, patients and their families and will do chart audits.
  - c. The Supervisor will confirm that the Regulated Member was never the only RN on duty on the unit, and that there was always at least one other RN working with them, on the same shift, on the same unit.
  - d. The **First Performance Evaluation**, is due within **three (3) months** after any outstanding Performance Evaluations from the Regulated Member's Order dated December 19, 2018 are satisfactorily completed and approved by the Complaints Director.
  - e. The **Second Performance Evaluation**, is due **three (3) months** after the First Performance Evaluation has been satisfactorily completed and approved by the Complaints Director.
  - f. The **Third Performance Evaluation**, is due **three (3) months** after the Second Performance Evaluation has been satisfactorily completed and approved by the Complaints Director.
  - g. Each Performance Evaluation in this Order must consider the completion of at least **250** nursing practice hours.
9. The Performance Evaluation(s) must be satisfactory to the Complaints Director, indicating that the Regulated Member is performing to the standard expected of a RN and that there have been no problems related to the issues identified in this Order.
10. Any outstanding Performance Evaluation(s) from the Regulated Member's Order dated December 19, 2018 and the Performance Evaluation(s) from this Order must be completed within **two (2) years** of this Order.
11. Until the Regulated Member has submitted the final Performance Evaluation to the Complaints Director as required above, and it is satisfactory to the Complaints Director, the Regulated Member is prohibited from working in any setting except the Employment Setting approved by the Complaints Director, unless the Regulated Member obtains written approval from the Complaints Director to obtain other employment, in which case:
  - a. Performance Evaluation(s) will be required from the Supervisor under the terms above, up to the date the Regulated Member's employment ended (if it ended); and
  - b. Performance Evaluation(s) will be required from an approved Supervisor at the new employer as well, and shall comply with all of the terms of paragraphs above.

12. The Regulated Member shall pay costs of **\$5000.00** to CARNA by **December 30, 2022**. Costs will be payable via MyCARNA. In addition, the Regulated Member acknowledges and agrees:
  - a. The costs reflect the importance of responding to their regulatory body, specifically that a regulated member has a duty to respond to communications from CARNA and that duty is essential to the regulation of registered nurses in Alberta, to uphold public confidence in the profession and to ensure that CARNA can carry out their mandates;
  - b. Failing to respond to their regulatory body between March 2020 and October 2020 affected the administration of justice and resulted in practical and real costs, that they now agree to pay to CARNA; and
  - c. The amount of costs is a substantial reduction from actual costs incurred and is reasonable and appropriate in the circumstances, with consideration to the amount of time to pay the costs, the proposed sanction, seriousness of the admissions and their failure to respond to CARNA.
13. The Regulated Member acknowledges that pursuant to section 82(3)(c) of the *HPA*, the usual terms of fine or costs payment apply whereby the Regulated Member may be automatically suspended for any non-payment.

(the “**Condition(s)**”)

14. For clarity and certainty, the Regulated Member is, in addition to what is set out in this Order, required to complete any and all requirements as have been, or may be, imposed from CARNA’s Registration Department. This Order does not supersede, or if complied with serve to satisfy, any such requirements from CARNA’s Registration Department.

#### **A. COMPLIANCE**

15. Compliance with this Order shall be determined by the Complaints Director of CARNA. All decisions with respect to the Regulated Member’s compliance with this Order will be in the sole discretion of the Complaints Director.
16. The Regulated Member will provide proof of completion of the above-noted Condition(s) by the dates set out therein, to the Complaints Director, via e-mail at [procond@nurses.ab.ca](mailto:procond@nurses.ab.ca) or confidential fax to 780.453.0546. If the Complaints Director deems it appropriate, and for the sole purpose of permitting the Regulated Member to proceed toward compliance with this Order, the Complaints Director may in her sole discretion make other minor adjustments to the Order that are in keeping with this Hearing Tribunal Order, without varying the substance of the Order.
17. Upon written request by the Regulated Member, any timelines outlined in this Order may be extended at the unfettered discretion of the Complaints Director, acting reasonably.
18. Should the Regulated Member fail or be unable to comply with any of the requirements of this Order, or if any dispute arises regarding the implementation of this Order, the Complaints Director may exercise the authority under section 82(3) of the *HPA*, or the information may be treated as reasonable grounds under section 56 of the *HPA* and subject to a new complaint under Part 4 of the *HPA*.
19. The responsibility lies with the Regulated Member to comply with this Order. It is the responsibility of the Regulated Member to initiate communication with CARNA for any anticipated non-compliance and any request for an extension.

**B. CONDITIONS**

20. The Regulated Member understands and acknowledges that it is the Regulated Member's professional responsibility to immediately inform CARNA of any changes to the Regulated Member's employers, and employment sites, including self-employment, for purposes of keeping the Registrar current and for purposes of notices under section 119 of the *HPA*.
21. The Registrar of CARNA will be requested to put the following condition against the Regulated Member's practice permit (current and/or future) and shall remain until the condition is satisfied:
- a. ***Shall pay fine – Arising from Disciplinary Matter;***
  - b. ***Performance Evaluation(s) required – Arising from Disciplinary Matter;***
  - c. ***Restricted re: employment setting – Arising from Disciplinary Matter;***
  - d. ***Letter from employer(s) – Arising from Disciplinary Matter.***
  - e. ***Must pay costs – Arising from a Disciplinary Matter.***
22. Effective on November 20, 2020, or the date of this Order if different from the date of the Hearing, notification(s) regarding the Condition(s) shall be provided to other regulatory bodies, including all regulatory bodies for RNs in the Canadian provinces and territories, as well as to the Regulated Member's employer(s), and notification of the Condition(s) being removed will be provided to such parties once the Condition(s) are complied with to the satisfaction of Complaints Director.
23. Once the Regulated Member has complied with a condition listed above, it shall be removed. Once all the conditions have been removed, the Registrar will be requested to notify the regulatory college of the other Canadian jurisdictions.
24. This Order takes effect November 20, 2020, and remains in effect pending the outcome of any appeal, unless a stay is granted pursuant to section 86 of the *HPA*.

This Decision is made in accordance with Sections 80, 82 and 83 of the *HPA*.

Respectfully submitted,




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Grace Brittain, Chairperson  
On Behalf of the Hearing Tribunal

Date of Order: November 20, 2020