



CRNM #138111

## Discipline Committee Decision

On June 23, 2016, a Panel of the Discipline Committee (the “Panel”) of the College of Registered Nurses of Manitoba (the “College”) held a hearing into the charges against a member of the College (the “Member”).

The Member appeared at the hearing with legal counsel and pled guilty to professional misconduct, the particulars of the charges are as follows:

1. Providing services to patients which the Member knew, or ought to have known, were being billed to the Manitoba Health Services Commission (“MHSC”) under physicians’ names and billing numbers on a-fee-for-service basis where:
  - a) the services being provided were within the Member’s scope of practice as a nurse practitioner;
  - b) the physicians had no involvement, nor were they required to have any involvement in the provision of the services whenever the Member is practicing within scope;
  - c) the Member knew that the physicians were intending to bill and billed MHSC on a fee-for-service basis for services provided by the Member; and
  - d) the Member knew that you could not bill through MHSC directly for any services you provided.
2. Improperly using a physician’s unique identifiers to access electronic medical records (EMR) under the physician’s name;
3. Knowingly entering information into EMRs misrepresenting that the information had been entered by a physician, and thereby participating in the falsification of medical records.

After hearing submissions of counsel, the Panel adjourned to consider the matter. The following facts are not in dispute:

1. The Member graduated in 2000 with a Bachelor of Nursing and subsequently obtained a Masters of Nursing, Nurse Practitioner stream;
2. The Member worked at other employers before commencing employment at a medical clinic;
3. While at the medical clinic, the Member was the only nurse working alongside a number of physicians both in the clinic and on house calls;
4. Initially the Member was paid a salary but after a period of time he was compensated by various physicians on a fee-for-service basis;
5. The Member was instructed to use the physician’s unique identifiers in the EMR for services provided by the Member. In other words, the Member was documenting under the physician’s name for services that the Member had actually performed in his role as a nurse practitioner. All of the services provided were within the scope of practice of a nurse practitioner;

6. When entering information into the EMR, the Member misrepresented that the information had been entered by the physician, when in fact this was not true;
7. The Member knew that his nursing services were being billed to the MHSC as if they had been performed by a physician. The Member was instructed to bill in this manner and was advised by the physicians that it was acceptable to MHSC. In 2011, the Member was advised that the billing was not acceptable to MHSC and he ceased employment at the medical clinic as soon as he found out there was a problem;
8. A number of the physicians involved were disciplined by the College of Physicians and Surgeons of Manitoba. The penalties imposed included reprimand, censure, fines, repayment of over-billings and payment of costs;
9. The Member has cooperated fully with the Investigation Committee at the College.

The Panel is satisfied that the facts submitted constitute professional misconduct, as alleged in the Amended Notice of Hearing and, accordingly, the member is guilty of professional misconduct, as charged.

Counsel for the Investigation Committee and counsel for the Member made a joint recommendation as to disposition as follows:

1. The Member be reprimanded;
2. The Member pay a fine of \$5,000;
3. The following conditions be imposed on the Member's entitlement to practice nursing:
  - a. The Member shall take two courses, *Righting a Wrong*, offered by the National Council of State Boards of Nursing, and a Code of Ethics course, offered by CNA, and;
  - b. The Member shall write a paper demonstrating insight into his inappropriate behavior;
4. The Member shall complete the remedial coursework and provide the paper on or before Sept. 23, 2016;
5. The Member shall pay costs of \$5,000 to the College;
6. Publication of a summary of the disposition, including the Member's registration number only will be made in *NurseLink* and on the College website;
7. The Member shall pay the fine and costs on or before Feb. 28, 2017.

The Panel considers the foregoing disposition to be appropriate for the following reasons:

1. The order is based on the joint recommendation of counsel to the Investigation Committee and counsel to the Member. The Panel sees no clear and cogent reason to depart from this recommendation;
2. The mandate of the College is the protection of the public. The Panel is satisfied that although the conduct was clearly wrong, the Member was practicing within scope and the public was never at risk;
3. The Member has accepted responsibility for his actions;
4. The payment of a fine and costs reflects the serious nature of the Member's breach of professional conduct;
5. The penalty is consistent with the penalties imposed by the College of Physicians and Surgeons of Manitoba against the physicians who were involved in the same incident.