

A HEARING COMMITTEE OF THE COLLEGE OF REGISTERED NURSES AND MIDWIVES
OF PRINCE EDWARD ISLAND, ACTING UNDER THE *REGULATED HEALTH
PROFESSIONS ACT*, R.S.P.E.I. 1988, C. R-10.1.

BETWEEN:

COLLEGE OF REGISTERED NURSES AND MIDWIVES OF PRINCE EDWARD ISLAND

AND:

JOSHUA MCINNIS

NOTICE OF DETERMINATION AND ORDERS

(Subsection 58(4), RHPA)

TO: Michael MacDonald, Complainant
Joshua McInnis, RN Respondent
Melissa Panton, RN, Registrar
Council of the College of Registered Nurses and Midwives of Prince Edward Island

TAKE NOTICE THAT, in accordance with the Notice of Formal Hearing dated January 13th, 2023, a hearing pursuant to subsection 55(2) of the *Regulated Health Professions Act* ("RHPA") into allegations arising out of a complaint against Joshua McInnis, RN dated May 9, 2022, was held on Tuesday, February 14, 2023.

The Notice of Formal Hearing included two allegations that Joshua McInnis

1. Between February 22, 2022 and April 28, 2022, while employed as a Registered Nurse ("RN") at the Queen Elizabeth Hospital ("QEH") at 60 Riverside Drive, Charlottetown, Prince Edward Island ("PEI"), engaged in conduct which violated the provisions of the *Regulated Health Professions Act*, SPEI 2013, c. 48 (the "Act"), in that he accessed medications without authorization from the medication dispensing units (Pyxis) at the QEH while on duty; and
2. Between February 22, 2022 and April 28, 2022, while employed as a Registered Nurse at the Queen Elizabeth Hospital ("QEH") at 60 Riverside Drive, Charlottetown, PEI, engaged in conduct which violated the provisions of the Act, in that he accessed medications without authorization for his personal use from the medication dispensing units (Pyxis) at the QEH while on duty.

The Hearing Committee was appointed by Council of the College of Registered Nurses and Midwives of Prince Edward Island (the "College") and was comprised of Ashley Buchanan, RN, Chair, Merissa Mitchell, RN, and Dan Hughes, Public Representative. The lawyer appointed to prosecute the allegations for the College was Gary Demeulenaere, K.C., and legal counsel to advise the Hearing Committee was Douglas Drysdale, K.C. Respondent Joshua McInnis was not represented at the hearing and confirmed at the start of proceedings that he wished to proceed without a lawyer.

In advance of the hearing, the Hearing Committee was provided with the complaint, the Respondent's written response, and the Notice of Formal Hearing. Following introductions at the hearing, Mr. Demeulenaere presented an Agreed Statement of Facts to the Hearing Committee, noting that it had been signed by the Respondent and himself on February 9, 2023, and that it contained the facts of the events which had resulted in the complaint by Michael MacDonald. The Prosecutor read the Agreed Statement of Facts into the record, and Mr. McInnis confirmed his agreement that the document could be relied on by the Hearing Committee.

The Hearing Committee recessed briefly and then agreed to accept the Agreed Statement of Facts without further evidence being required, and found Joshua McInnis guilty of professional misconduct as alleged in the two allegations in the Notice of Formal Hearing. In particular, Joshua McInnis admitted at paragraphs 34 and 40 of the Agreed Statement of Facts that his conduct in both instances constituted professional misconduct. Based on the evidence included in the Agreed Statement of Facts, the Hearing Committee found that Mr. McInnis's conduct constituted professional misconduct contrary to paragraph 57(1)(a) of the Act.

The professional misconduct consisted of two instances of engaging in conduct which is not consistent with certain requirements of the Code of Ethics for Registered Nurses (2017) or the Standards for Nursing Practice (December 2018) noted at paragraphs 32, 33, 38 and 39 of the Agreed Statement of Facts. It should be noted that one of the paragraphs from the Code of Ethics was incorrectly referred to as part G, 4 in paragraphs 32 and 38 of the Agreed Statement of Facts, and was corrected with the agreement of the parties to part G, 2.

In essence, the Respondent has pleaded guilty to accessing medications without authorization while on duty at the QEH, and to accessing those medications for his personal use. He explained

that he had done this for a number of months due to his addiction to Adderall, a stimulant medication.

Following acceptance of the Agreed Statement of Facts, the Hearing Committee was presented with a Joint Submission on Partial Disposition dated February 9, 2023, signed by Gary Demeulenaere and Joshua McInnis. Prosecutor Demeulenaere provided a Book of Disposition Documents to the Committee and made submissions to explain how the Joint Submission was arrived at. The Respondent, Mr. McInnis, also made submissions supporting most of the recommendations included in the "Joint Submission on Partial Disposition" document included in the binder, but asked the Hearing Committee to consider his submissions with respect to subsection 58(2.1) of the RHPA in making its decision on the amount of a fine to be imposed. He asked the Committee to impose something less than the \$4000 requested by the College, and also to consider whether he could begin his payments when he returns to work, and pay less per month, over a longer period of time.

Mr. McInnis also asked the Committee to consider imposing a lesser period of suspension of his registration than the 90 days requested by the College, while recognizing that some period of suspension was appropriate in the circumstances of this case.

The Hearing Committee has decided that a suspension is required in this case to send a strong message to Mr. McInnis and all members of the College that medication is not to be tampered with, honesty is a very important requirement of the nursing profession, and illegal activity is not a viable option for coping with substance abuse. The suspension will be for 60 days, which is less than the length requested by the prosecutor, due to Mr. McInnis's efforts prior to the hearing to help himself, through EAP and counselling. The suspension also takes into account that Mr. McInnis has been out of work since May, 2022. There are other components to the disposition set out below, but the Committee has decided that a fine is not necessary, due to the fact that the Respondent will be responsible for monthly urine testing, at his own cost.

Upon considering the proposed orders and the submissions of prosecuting legal counsel for the College and Joshua McInnis, the Hearing Committee modified the orders recommended in the Joint Submissions on Partial Disposition and ordered as follows:

- (1) A formal reprimand letter shall be prepared by the Coordinator of Regulatory Services for review and approval by the Chair of the Hearing Committee, and to then be issued by the Chair to Joshua McInnis;
- (2) Joshua McInnis' registration with the College shall be suspended for sixty (60) days, commencing on the day this Notice of Determination and Orders is delivered to him;
- (3) Following the completion of the 60-day suspension, the following conditions shall be attached to Joshua McInnis' registration for a period of twelve (12) months:
 - (a) Subject to paragraph (b), Joshua McInnis may not practice as a registered nurse in any position where he will be required to handle or will have access to Adderall, benzodiazepines, narcotics, opiates, anxiolytics, or any mood- or mind-altering medications;
 - (b) Notwithstanding (a) above, Joshua McInnis may practice as a registered nurse in any other capacity, provided that his prospective employer first provides written confirmation to the Coordinator of Regulatory Services at CRNMPEI that Mr. McInnis will not have access to any of the medications referenced in paragraph (a) above. It will be Joshua McInnis' obligation to obtain the written confirmation from the employer and provide it to the Coordinator of Regulatory Services at CRNMPEI;
- (4) Also following the 60-day suspension as outlined above, Joshua McInnis shall have the following conditions attached to his nursing registration for no less than a 24-month period (to clarify, the conditions will be in place at the same time as the conditions described in paragraph (3), and for an additional twelve (12) months):
 - (a) abstain from all mood or mind-altering substances including alcohol, illicit or street drugs, including cannabis, and any prescription medications not prescribed to him by a licensed health provider (either his own primary care provider or any other);
 - (b) the Member must disclose his addiction history to any health care provider prior to accepting a prescription for any medication;
 - (c) the Member must advise this Committee immediately following receipt of this decision of the identity of his primary care provider and provide a written open consent for CRNMPEI to make random inquiries to that primary care provider with respect to his addiction issues and treatment;

- (d) the Member must provide a copy of this Decision and any related written decision from this Committee or CRNMPEI to any employer who continues or offers employment to the Member, and verify in writing to CRNMPEI that this has been done, within one week of providing the copies;
- (e) the Member must provide a written report monthly from his addiction counselor to this Committee to confirm that the Member is actively participating in addiction treatment. The first monthly report will be due at CRNMPEI office twenty-eight (28) days following the date this decision is delivered to the Member, and then every thirty (30) days after that during the twenty-four (24) months;
- (f) the Member must select a health care provider acceptable to CRNMPEI to conduct random urine drug tests monthly, submit to such random tests monthly, and to cause the test results to be provided to CRNMPEI. The tests shall be initiated by the health care provider on no more than 24-hour notice to the Member and shall be at his own expense;
- (g) the Member must report any relapse in his substance abuse to CRNMPEI and stop practicing as a RN immediately and refrain from practicing until authorized to do so by CRNMPEI;
- (h) the Member must successfully complete a nursing education course in either Ethics or Standards of Nursing Practice, at his own expense, acceptable to the Coordinator of Regulatory Services of CRNMPEI, and provide proof of completion to the Coordinator on or before January 1, 2024; and
- (i) Failure to comply with the above conditions may result in suspension of the Member's registration.

Please take note that, pursuant to subsection 59(2) of the RHPA, the respondent, Joshua McInnis, may appeal the determination or any of the orders above to the Supreme Court of Prince Edward Island within 30 days of receiving this notice.

DATED at Charlottetown, Prince Edward Island, this 13th day of April, 2023.


ASHLEY BUCHANAN, RN
Chair of the Hearing Committee