

NOTICE OF SECTION 52 DECISION

TO: LINDA BROWN, NP (cc to Brian P. Casey, legal counsel)
TARA ROCHE

COUNCIL OF THE COLLEGE OF REGISTERED NURSES AND MIDWIVES OF PEI

TAKE NOTICE THAT the Investigation Committee received an Investigation Report on November 2, 2023 from Investigator Rosemary White concerning the complaint by Tara Roche against Nurse Practitioner Linda Brown. The Committee has met to consider the Report as required by section 52 of the *Regulated Health Professions Act* ("RHPA") and to choose one of four options described in section 52:

52 (1) An investigation committee shall, within 60 days of preparing or receiving an investigation report or reports under section 51, consider the report or reports and

- (a) dismiss the complaint, if in the opinion of the investigation committee
 - (i) the allegations are frivolous, vexatious or without merit, or
 - (ii) there is insufficient evidence to support the allegations;
- (a.1) refer the complaint to a mediator for mediation, if
 - (i) the investigation committee is satisfied that the referral is appropriate in the circumstances and not contrary to the public interest, and
 - (ii) the complainant and the respondent agree to participate in mediation;
- (b) make any order that the hearing committee is authorized to make under subsection 58(2), if the respondent consents to the order; or
- (c) request that the person or persons who appointed the investigation committee appoint a hearing committee and refer the complaint to the hearing committee for a hearing.

The Committee met on December 1, 2023, within the time allowed by section 52, and has decided to propose several orders under section 52(b), because evidence exists that Ms. Brown was sick with a condition that affected her insight, and she worked while that condition was symptomatic. We have made this decision because there is evidence described in the Investigation Report which is likely to prove that Linda Brown was incompetent within the meaning of that term as defined in section 57(2) of the *Regulated Health Professions Act* within some part, at least, of the February – March, 2023 time frame referred to in Ms. Roche's complaint:

- (2) The conduct of a respondent may be found to constitute incompetence where
 - (a) an act or omission of the respondent
 - (i) demonstrates a lack of knowledge, skill or judgment;
 - (ii) demonstrates disregard for the safety or welfare of a client, or
 - (iii) ...
 - (b) the respondent is unable to practice a regulated health profession in accordance with accepted professional standards for any reason, including that the respondent is impaired by illness, addiction or other incapacity.

The evidence indicates that Linda Brown has been diagnosed with [REDACTED]

she lacked insight [redacted] and also communicated with patients through social media and her phone. At the time, she was employed as a full-time nurse practitioner at the Montague Health Centre, and also provided online NP consultations through Maple, an online health care service.

There is no evidence that any patients were harmed or any errors made by NP Brown, but lack of insight can be very serious for a professional nurse. A hearing would give Linda Brown an opportunity to defend herself against the complaint, and the Committee acknowledges that the evidence summarized in the Investigation Report has not been presented in a hearing format, and also that Ms. Brown has not yet had an opportunity to challenge the evidence which has been gathered, or to defend herself at a hearing. However, the RHPA offers another option (rather than a hearing) which is worthy of consideration, and the Committee has decided to choose this option. The option comes from section 57(1)(b), where the Committee is given authority to "make any order that the hearing committee is authorized to make under subsection 58(2), if the respondent consents to the order" (the respondent in this case is Ms. Brown).

Orders can be made under this option only if the respondent consents, and the respondent is not required to consent. However, the Investigation Committee notes that in her interview with the investigator, Ms. Brown acknowledged that she had experienced [redacted] did not recognize it, required medical attention for it, and she found nothing incorrect in the information included in the complaint in this matter. In these circumstances, the Committee has decided to propose certain orders to Ms. Brown for her consideration. She has no obligation to consent to these orders, but if she does, she should sign this document in the space provided below, and return the signed document to the College of Registered Nurses and Midwives of Prince Edward Island, to the attention of Erika Bradley, Chair of the Investigation Committee.

If Ms. Brown consents to the orders, the complaint process will be concluded when she successfully satisfies the terms of the orders. If Ms. Brown does not wish to consent, or consent within the time frame set out below, as is her right, the Committee will meet again. Subsection 58(2) of the RHPA provides for a wide variety of orders, including the following, and this Committee is authorized to make orders because of section 52(see above):

58 (2) Where a hearing committee determines that conduct of the respondent constitutes professional misconduct or incompetence, the hearing committee may make one or more of the following orders:

(d) an order imposing terms and conditions on the registration of the respondent;

Consequently, for the purpose of paragraph 52(1)(b) of the Act, the Committee will make the following orders, IF AND ONLY IF LINDA BROWN SIGNS THE BOTTOM OF THIS DOCUMENT ON OR BEFORE THE DATE INDICATED BELOW TO INDICATE CONSENT TO, AND AGREEMENT WITH, THE FOLLOWING:

Linda Brown's registration will be subject to compliance with the following terms and conditions, for the period of one year from the date that Ms. Brown signs this document, provided the Committee has been provided with evidence at that time that her health is such that she is safe to return to

practice without supervision or monitoring:

- (a) Linda Brown shall continue to be under the supervision and care [REDACTED] who provided care and treatment to her during February – March, 2023, for a minimum of one year from the date Ms. Brown consents to these orders, and she will arrange with that [REDACTED] for monthly status reports to be provided to the Investigation Committee with respect to Ms. Brown's [REDACTED] her insight as it relates to the ability to do her job safely, [REDACTED] opinion as to Ms. Brown's capability to work safely as a nurse practitioner.
[REDACTED]
- (b) Linda Brown must provide written consent to [REDACTED] within one week from the date Ms. Brown consents to these orders to allow [REDACTED] to provide information about Ms. Brown's [REDACTED] directly to the Investigation Committee, in the case of emergency, and she shall notify the Committee in writing that she has done so. She shall also authorize [REDACTED] to notify the Committee immediately if she misses any appointment, [REDACTED]
- (c) [REDACTED]
- (d) In the event that Ms. Brown's present [REDACTED] is unable for any reason to meet with her or to report to the Committee, Ms. Brown will obtain a referral from [REDACTED] who can satisfy the requirements of these terms and conditions, and obtain the agreement [REDACTED] to do so;
- (e) Any cost associated with these appointments or the reports shall be the responsibility of Linda Brown and not the College;
- (f) Within one month after the conclusion of one year from the date when Linda Brown consents to these orders, she will arrange with [REDACTED] she is seeing to obtain a report for the Committee as to her ability to practice safely. Depending on the contents of the report, the Committee may decide to impose further conditions on Ms. Brown's registration, if such is needed to protect the public interest;
- (g) Linda Brown will provide a copy of this decision to [REDACTED] within one week of signing indicating her consent to these terms, and will ensure that [REDACTED] is aware of these terms and conditions;
- (h) Linda Brown will make arrangements with her Clinical Lead or her authorized substitute, to be under daily supervision, and to report to the Committee in the event of any errors by Ms. Brown which are related to lack of insight;
- (i) Linda Brown will notify the Committee, in advance, in the event that her job position is changing, to enable the Committee to consider whether any changes to these orders are needed;
- (j) Linda Brown will refrain from continuing her work with Maple or any similar nursing work additional to her full-time responsibilities until such time as [REDACTED] has decided in writing that she can safely resume or assume those activities.

The Committee retains jurisdiction over the complaint in the event that Linda Brown consents to these orders but fails to comply with their terms, in which case the matter will be returned to the Committee for further decision.

Linda Brown shall have until 5:00 p.m. on Thursday, February 29th 2024, to consent to the orders set out above. To indicate consent, she must sign and date a copy of this document before a witness and return it to the College office, marked "URGENT", to the attention of Erika Bradley, Chair of the Investigation Committee.

Dated February 14th, 2024.

Erika Bradley,
Chair, Investigation Committee

I, Linda Brown, NP, Registration number 005688, do hereby consent to the terms of the orders set out earlier in this document, freely and voluntarily, and I understand that I have the right to consult legal counsel, but whether or not I have consulted legal counsel, by signing and dating below, I am consenting to the terms of the orders and will comply with their terms, until informed by the Investigation Committee that all requirements of the orders have been satisfied.

Linda Brown
Date Feb 27/24

Witness
Date Feb 27/24