

Section 52 Decision

This is to inform you that an Investigation Committee of the College of Registered Nurses and Midwives of Prince Edward Island (CRNMPEI) has considered the complaint dated 11/06/23 made by Dona Shaji against Yvonne Mariwande, RN registration number 004722, and the response from Yvonne Mariwande, which was not dated but the documents were received by the Committee January 15,2024., On February 14,2024 pursuant to subsection 43(d) of the *Regulated Health Professions Act* (RHPA) the Committee decided to refer the complaint to an investigator for investigation.

A report of the investigation has now been completed by investigator Rosemary White dated May 30,2024. The Committee has considered the investigation report, as required by Section 52 of the RHPA. Section 52 of the RHPA requires the Investigation Committee to choose one of four options:

- (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 complainant 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) 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.

Members of the Committee were: Cheryl Jewell RN (Chair), Beth Pizio RN (Member) and Gerry MacPhee (Public Representative).

Decision

The Committee met on July 10,2024 and has decided to request that the allegations concerning the conduct of Yvonne Mariwande including her treatment of staff at Clinton View Lodge in particular Dona Shaji and residents of Clinton View Lodge be referred to a Hearing Committee or for a hearing. Section 52 (4)(a) of the RHPA requires the Committee to provide written notice and reasons for this referral. The Committee's reasons follow.

The facts provided in the investigation report have led the Committee to conclude that Yvonne Mariwande's conduct may constitute professional misconduct as outlined in the RHPA section 57(1)(a) and violated Part 1 A, B, C, D, and E of the Code of Ethics for Registered Nurses.

RHPA

Section 57. Professional misconduct

(1) The conduct of a respondent may be found to constitute professional misconduct if

(a) the respondent contravenes this Act, the regulations, the bylaws, standards of practice, code of ethics or practice directions in a manner that, in the opinion of the investigation committee or the hearing committee, relates to the respondent's suitability to practise a regulated health profession.

Code of Ethics for Registered Nurses

Part I. Nursing Values and Ethical Responsibilities

A. Providing Safe, Compassionate, Competence and Ethical Care

Nurses provide safe, compassionate and ethical care.

B. Promoting Health and Well-Being

Nurses work with persons who have health care needs or are receiving care to enable them to attain their highest possible level of health and well-being.

C. Promoting and Respecting Informed Decision-Making

Nurses recognize, respect and promote a person's right to be informed and make decisions.

D. Honouring Dignity

Nurses recognize and respect the intrinsic worth of each person.

E. Maintaining Privacy and Confidentiality

Nurses recognize the importance of privacy and confidentiality and safeguard personal family and community information obtained in the context of a professional relationship.

The Committee found evidence that Yvonne Mariwande's conduct was indicative of professional misconduct. The evidence presented to the Committee which led to this decision included:

- a) Yvonne's decision to demand staff to place a resident in a tub against the resident's will as demonstrated by the resident screaming and physically lashing out. Code of Ethics (1A and 1B)
- b) Yvonne's decision to make comments about staff and resident's appearance, body odours, and her use of unprofessional language when describing odours from residents. Code of Ethics (1C and 1D)

- c) Yvonne violated the privacy and confidentiality of a staff member when she

[REDACTED]
[REDACTED] Code of Ethics (1E)

- d) Yvonne's decision to have the complainant repeat her request three times for Tylenol, in front of her peers at the nursing desk, until she was satisfied with the required manners and wording, even though English was the complainant's second language. Code of Ethics (1D)

The above evidence supporting findings of professional misconduct needs to be considered at a hearing to allow Yvonne Mariwande the opportunity to present her side of the case and have an independent panel consider the evidence. To assist the Registrar in preparing a Notice of Hearing reference should be made to section 57 (1)(a) of the RHPA outlined above as well as Part 1A,B,C,D, and E of the Code of Ethics for Registered Nurses.

The Committee determined that there was not enough evidence to support a finding of professional misconduct regarding the complaint of lack of support to the complainant while providing postmortem care. There is evidence that the complainant was provided with a second staff member and RN direction throughout the procedure to support orientation of a new skill.

Section 52(1)(b) RHPA Option

Although the Committee has decided to refer the complaint to a hearing, there is a further option available. Pursuant to section 52(1)(b) of the RHPA, the Committee may make any order that the hearing committee is authorized to make under subsection 58(2), if the respondent/members consent to the order.

Yvonne Mariwande may consider some willingness to resolve the allegation(s) without going to a hearing. The Committee has decided upon orders which are appropriate in the circumstances of this case and leaves it to Yvonne Mariwande to decide if she consents to the proposed resolution. If she decides to consent to the orders, she must confirm in writing (see below), and upon receipt by the Committee, the complaint will be concluded, except for requirements of the orders which Yvonne Mariwande will be required to complete. If she does not wish to consent, as is her right, the complaint will proceed to a hearing automatically, after the expiration of the time indicated below. Subsection 58(2) of the RHPA provides for a wide variety of orders, including the following:

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:

- (a) an order directing the respondent to undergo additional education or training.
- (b) an order directing the respondent to participate in counselling or a rehabilitative treatment program
- (c) an order reprimanding the respondent.
- (d) an order imposing terms and conditions on the registration of the respondent.
- (e) an order suspending the registration of the respondent for a specified period of time or until the occurrence of a specified future event.
- (f) an order cancelling the registration of the respondent.
- (g) an order requiring the respondent to pay all or part of the costs incurred by the hearing committee to conduct the hearing;
- (h) an order imposing a fine on the respondent in an amount that the hearing committee considers appropriate, up to a maximum of \$50,000.
- (i) an order imposing any other sanction that the hearing committee considers to be appropriate.

The Investigation Committee noted from the investigation report that Yvonne Mariwande was the Respondent of two previous complaints submitted to CRNMPEI dated October 2,2020 and February 22,2021. The two notices appear similar to the conduct alleged in this complaint.

Consequently, for the purpose of paragraph 52(1)(b) the Committee will make the following orders. **IF AND ONLY IF YVONNE MARIWANDE SIGNS THE BOTTOM OF THIS DOCUMENT TO INDICATE CONSENT TO AND AGREEMENT WITH THE FOLLOWING:**

- 1) Yvonne Mariwande must successfully complete an in-person nursing education course at her own expense acceptable to the Coordinator of Regulatory Services of CRNMPEI or designate and provide proof of completion to the Coordinator on or before Sept. 1,2025.
- 2) The in-person course(s) must have learning outcomes focused on
 - a. emotional intelligence, and
 - b. interpersonal communication and leadership,
- 3) The course(s) may be delivered physically or electronically but must have the capability to evaluate Yvonne Mariwande in some type of face-to-face interaction. Any deviations from this time frame must be approved in advance by the Coordinator of Regulatory Services CRNMPEI or designate.
- 4) Performance monitoring for five years following the successful completion of the in-person courses by the Coordinator of Regulatory Services of CRNMPEI or a designate.

- 5) Yvonne Mariwande shall have conditions placed on her registration such that she shall be authorized to only provide office duties, thereby limiting her interactions with staff and residents until successful completion of the approved courses as identified above.
- 6) Yvonne Mariwande will pay a fine of \$1000 by December 31,2024.
- 7) Yvonne Mariwande will be required to notify current and future employers of all CRNMPEI investigations and disciplinary measures for the remainder of her professional career as a Registered Nurse.

The Committee retains jurisdiction over the complaint in the event that Yvonne Mariwande consents to the orders but fails to comply with the terms set out above, in which case the Committee will refer the complaint to Council to appoint a Hearing Committee for a hearing.

The member Yvonne Mariwande shall have until 4 PM on September 6,2024 to consent to these orders set out above by signing her name and dating the bottom of a copy of this document before a witness and returning it to the CRNMPEI office, to the attention of the Chair named below. Failure to do this will mean that the complaint will be referred by the Committee to a hearing.

Dated this 21st day of August at Charlottetown, PEI



Cheryl Jewell, Chair of the Investigation Committee

I, Yvonne Mariwande, consent to the order described above.

Yvonne Mariwande, Respondent

Date

