

## Investigation Committee Notice of Dismissal and Order

This is to inform you that an Investigation Committee of the College of Registered Nurses of Prince Edward Island has considered the complaint dated May 17, 2019, made by Rachelle Pike against Heidi Adams, RN, registration number 004656, and the response from Heidi Adams, dated July 10, 2019, as required by section 52 of the *Regulated Health Professions Act* (RHPA). The Committee also has considered the Investigation Report completed by Rosemary White, dated February 26, 2020.

Section 52 requires the Investigation Committee to consider the complaint and the member's response, and to choose from the following 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;
- (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.

The Committee met to consider the investigation report, as required by section 52 of the *Regulated Health Professions Act*. Members of the Committee were: Meghan MacDonald, RN (Chair), Marla Townshend NP (Member) and Lisa Pyke (Public Representative). This is the same Committee that decided to have the complaint investigated.

Although section 52 speaks of dismissing the complaint, or referring the complaint to a hearing, rather than doing these things in relation to only part of the complaint, we have interpreted section 52 as permitting us to choose one of the three options in relation to each allegation in the complaint, rather than to have to choose one option for the entire complaint. We think it cannot have been intended that parts of the complaint that we feel cannot be proved must proceed to a hearing simply because other parts of the complaint, in our view, can be proved. In other words, we have decided that some allegations in the complaint should be dismissed, and others should proceed to a hearing. To perhaps complicate matters even further, we have decided not to send those other allegations to a hearing, but rather to issue an order, because we feel that we have sufficient information to make an order, and we believe that the member will consent to it.

The law which governs the nursing profession in Prince Edward Island changed in July, 2018, when the *Registered Nurses Act* (RNA) and regulations made under it were repealed, and replaced by the RHPA. The complaint against Heidi Adams dated May 17, 2019, covers the time period of February 8, 2018 to February 6, 2019. Some of the incidents are alleged to have occurred entirely before July 2018, and some incidents occurred partly before July and partly afterwards. Events that took place before July 4, 2018 happened while the RNA was the law. Now that Act has been repealed. However, we have been advised by legal counsel for the College that the former *Registered Nurses Act* continues to apply to any investigation, proceeding or remedy that relates to an obligation or liability that existed before the RHPA became law, because of sections 32 and 33 of the Prince Edward Island *Interpretation Act*. This means simply that the types of misconduct alleged against Heidi Adams are those described in the RNA for any incident prior to July 4, 2018, and as described in the RHPA for any incident on July 4, 2018 or afterwards. The other effect of the *Interpretation Act* is to make the process outlined in the RHPA applicable to all allegations, because the discipline process we are using now is required to be the one contained in the RHPA (see section 33(1)(c) *Interpretation Act*).

## Decision

The complaint submitted by Rachelle Pike described eight allegations related to the practice of the Member, Heidi Adams, which the complainant says occurred at the Women's Wellness Program, located at 199 Grafton Street, Charlottetown, from February 8, 2018 to February 6, 2019. However, the first and eighth allegations were dismissed by this Committee by its decision dated September 18, 2019. This leaves six allegations, numbered as they were in the original complaint, as follows:

2. The second allegation states that Heidi Adams, RN, while working at the Women's Wellness Program and Sexual Health Services (WWP & SHS), notified a patient incorrectly on May 23, 2018, that she had tested negative for all STBBI testing, when in fact there was still an outstanding report that had not been received, and which later was positive for syphilis. It is also alleged that Heidi Adams did not report this incident to the manager.
3. The third allegation states that on June 29, 2018, while working at the WWP & SHS, Heidi Adams refused a patient's request to test for all STBBI's, and only tested for chlamydia and gonorrhoea.

4. The fourth allegation is that on July 16, 2018, Heidi Adams, while working at the WWP & SHS, administered an incorrect dose of antibiotic to a patient who was named as a contact of a positive syphilis case. It is also alleged that Heidi Adams did not report this incident to her manager.
5. The fifth allegation is that while working at the WWP & SHS, Heidi Adams failed to collaborate with a nurse practitioner on October 19, 2018, although she had obtained a swab for viral herpes simplex virus from a patient and had named an ordering NP clinician. It is also alleged that Heidi Adams did not report this incident to her manager.
6. The sixth allegation is that Heidi Adams, while working at the WWP & SHS, disclosed confidential information (name, Medical Record Number and Date of Birth) about a patient to another patient on November 13, 2018. It is also alleged that Heidi Adams did not report this incident to her manager.
7. The seventh allegation is that Heidi Adams, while working at the WWP & SHS, incorrectly recorded information from a patient who she had seen for an initial prenatal visit on November 19, 2018, which information was relied on by others, and which led to consequences for the patient.

It is the Investigation Committee's decision to dismiss #'s 3, 4 and 5 of the allegations above as per section 52(1)(a) of the RHPA, because there is not sufficient evidence to require a hearing.

In relation to allegation number 3 described above, the Committee notes that the accounts of all parties involved are quite different, including that of the patient involved. The facts presented are inconsistent and it is not clear that the member's recollection of events as described in her written response is not accurate. The Committee feels that there is insufficient evidence to conclude professional misconduct occurred and also cannot find fault with the member's belief that someone else was responsible to file a report. This allegation is dismissed.

In relation to the fourth allegation, the Committee notes that between the original complaint, the members response, and the Investigation Report, there are many inconsistencies. The Committee was also unclear as to how the medication was readily available at the clinic prior to receipt of the written medication order. It was felt that there was a substantial amount of "he said/she said" information involved in this allegation, and content of this nature is difficult to prove.

While we acknowledge that Heidi Adams did administer the wrong dose of a medication to the client, we feel that this was a mistake that was made due to a failure of proper lines of communication between the WWP & SHS and the Chief Public Health Office, as well as policy of the WWP & SHS, and as such we did not feel blame for the mistake was to be placed solely on the Member. We conclude that this allegation does not have sufficient merit to go forward, and is dismissed.

In relation to the fifth allegation, the Committee finds this allegation to be frivolous in nature. The Committee acknowledges that it is not within the scope of the RN2 to diagnose, but would like to note that the job description for the RN2 of the WWP & SHS specifies that the RN2 must function as an effective member of a multi-disciplinary team. It is also noted in the Investigation Report that a policy for the WWP & SHS in regards to intra-professional collaboration was not found. Additionally, there is no supporting evidence to confirm that the Member was ultimately making a diagnosis for this patient. The Committee acknowledges that, based on workplace roles and hierarchy, the Member should have consulted with the Nurse Practitioner, but without a specific policy stating such, we are unable to place blame solely on the Member. We also acknowledge that the Member did not report this incident, however, in the absence of a specific policy, we cannot conclude that there was an error to report. We conclude that this allegation does not have sufficient merit to go forward, and is dismissed.

This Committee has decided to dismiss these three of the remaining six allegations. The Complainant, Rachelle Pike, has the right to appeal the dismissal of these three allegations to the Supreme Court of Prince Edward Island under subsection 59(1) of the RHPA within 30 days of being served with this document.

In relation to the remaining allegations, #'s 2, 6, and 7, it is the Investigation Committee's decision to make an order under section 52(1)(b) of the *Regulated Health Professions Act*. We think this is an appropriate case for an order because the member, Heidi Adams, admitted in her written response that she had done the activities which were alleged against her, and her lawyer, William Lea, suggested in an email dated February 27, 2020 to Coordinator of Regulatory Services Melissa Panton that Ms. Adams might be prepared to agree to an order. This is important because section 52 of the RHPA only permits an order to be made by an Investigation Committee if the member consents to it.

We note that Mr. Lea asked to be allowed to participate in making the order, but it is the view of the members of this Committee that an order is not negotiable. We have decided what is an appropriate order in light of the evidence which is contained in the Investigation Report, and the member has the option of agreeing with us, or not agreeing. If she does not agree, the complaint (allegations 2, 6 and 7 in the complaint document) will proceed to a hearing.

In this case, the Committee feels that the actions of the Member might well have violated the Standards of Nursing, Standard 3-Responsibility and Accountability, specifically Standards:

- 3.4-**Is responsible and accountable for her/his actions and decisions at all times.
- 3.5-**Follows established policies and procedures
- 3.8-**Responds to and reports situations which may be adverse for clients and/or health care providers, including incompetence, misconduct, and incapacity for registered nurses and/or other health care providers.

As the Committee has identified these Standards to be applicable to the three allegations, we conclude that Heidi Adams could be found guilty of professional misconduct in relation to the three allegations noted above if this matter proceeded to a hearing. We do not intend to review the allegations in detail and will simply say that we rely on the evidence as described in the Investigation Report, and have considered the definition of "professional misconduct" in section 1(t) of the *Registered Nurses Act* as it relates to allegation 2, and the definition of that term in section 57 of the RHPA as it relates to allegations 6 and 7, because of the timing of these allegations, and the change in the law referred to earlier.

The Committee would like to acknowledge that the Member has been cooperative and reasonable throughout this process and that she has accepted responsibility for her actions related to these allegations. As the level of risk to the patients involved was minimal, the Committee feels that an order is appropriate in this circumstance.

As a result, the Committee makes the following order:

- (i) Heidi Adams will complete three (3) professional development courses prior to renewal of her nursing registration in the fall of 2020, for the year 2021. These courses can be completed either online or in person, and must be related to any three of the following:
  - a. Interdisciplinary Teamwork
  - b. Effective Conversations and Communication
  - c. Stress Management

- d. Documentation
- e. Standards of Nursing

- (ii) The Member will be responsible to pay all costs associated with taking these courses.
- (iii) Ms. Adams must obtain prior approval from the Coordinator of Regulatory Services for the College of Registered Nurses of Prince Edward Island before taking the courses, and she is responsible to provide written proof of successful completion of the courses to the Coordinator of Regulatory Services, on or before August 15, 2020. Should circumstances directly related to the current Covid-19 crisis impact Ms. Adams' ability to complete these courses, direction is to be obtained from the Committee.
- (iv) Failure to complete successfully any of these courses will result in suspension of Heidi Adams' Nursing Registration. In such an event, this Committee will then decide if Ms. Adams will be permitted to take a replacement course, and whether the suspension will be lifted.
- (v) If Heidi Adams returns to work as a registered nurse, she must first complete successfully a thorough orientation with a mentor assigned to her. This mentor must be approved by the Coordinator of Regulatory Services and the orientation must pay particular attention to written unit/site policies and procedures. Ms. Adams must ask the employer to submit regular performance appraisals (a minimum of every 6 months) to the Coordinator of Regulatory Services, for a period of two years. If the CRS is concerned about any of these appraisals, she may bring the matter to the attention of the Committee."

The member shall have 14 days from the date this document is delivered to her lawyer to consent to this order by signing her name and dating the bottom of a copy of this document and returning it to the CRNPEI 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 23 day of March, 2020, at Charlottetown, PEI

Signature

A solid black rectangular box redacting the signature of the individual.

Meghan MacDonald, RN, Chair of the Investigation Committee