

## Hearing Committee Notice of Determination and Order

Complaint # 2019-007

Re: Cathy (Cornelia) Kaptein, Member Registration #003088

A Hearing Committee of the College of Registered Nurses of Prince Edward Island (the "Committee") conducted a hearing in Charlottetown, PEI on July 30, 2020, to consider a complaint dated August 22, 2019 against Registered Nurse Cathy (Cornelia) Kaptein, registration number 003088. The Hearing followed a meeting of the Investigation Committee which resulted in a written notice of referral from the Investigation Committee dated February 19, 2020 to proceed to a hearing.

Members of the Committee in attendance at this hearing were: Chelsea Chessman (Chair); Maranda Wilson (member); and Phyllis Horne (public representative). Also, in attendance were: Respondent Cathy Kaptein; Prosecutor Gary Demeulenaere; and Legal Counsel and Advisor for the Committee Doug Drysdale. A representative from Island Confidential Associates audio recorded the formal hearing. Other people in attendance were Kate Jurgens assisting Mr. Demeulenaere, and Colleen MacEachern, a support person for Ms. Kaptein.

The purpose of the hearing on July 30, 2020 was to determine whether Cathy Kaptein engaged in activities that constitute professional misconduct and/or incompetence, as those terms are defined in the Regulated Health Professions Act, between approximately August 8, 2019 and August 15, 2019.

The allegations which were considered at the hearing relate to the following incidents:

1. On August 8, 2019, while employed as Registered Nurse at Canadian Blood Services in Charlottetown, Prince Edward Island, you engaged in conduct which violated the provisions of the *Act*, in that you attended your place of employment at Canadian Blood Services while under the influence of alcohol or drug or both;
2. On August 8, 2019, while employed as Registered Nurse at Geneva Villa in Charlottetown, Prince Edward Island, you engaged in conduct which violated the provisions of the *Act*, in that you attended your place of employment at Geneva Villa and provided health care by drawing blood from a patient while under the influence of alcohol or drug or both; and
3. On August 15, 2019, while employed as Registered Nurse at Canadian Blood Services in Charlottetown, Prince Edward Island, you engaged in conduct which violated the provisions of the *Act*, in that you attended your place of employment at Canadian Blood Services while under the influence of alcohol or drug or both.

## FINDINGS and DECISION

The hearing lasted for part of one (1) day only because the prosecutor (Mr. Demeulenaere) and the member presented an Agreed Statement of Facts to the Committee. A binder of documents was also accepted into evidence (Exhibit #1), as well as several letters presented by Ms. Kaptein with respect to her present health status (Exhibits #2, 3, and 4).

In the Agreed Statement of Facts, Cathy Kaptein agreed that she had committed each of the three allegations in the Notice of Formal Hearing, and that they all amounted to professional misconduct. She also admitted that the second allegation was also incompetence on her part.

The Committee left the hearing room to read and consider the Agreed Statement of Facts and comments from the prosecutor and the member. We decided to accept the Agreed Statement of Facts and because of this, there was no need to hear from witnesses or to be presented with any further documents.

In accepting the Agreed Statement of Facts, the Hearing Committee found that Cathy Kaptein was guilty of all three of the charges against her, and the Committee returned to the hearing room to state that she was guilty of three instances of professional misconduct and one instance of incompetence (the second allegation).

The Agreed Statement of Facts reveals that Cathy Kaptein has struggled with addictions for decades. Exhibit B attached to the Agreed Statement of Facts indicates that she was first suspended in 1991 when she was working in Calgary, Alberta and her Certificate of Registration had been suspended for nine months by the Alberta Registered Nurses Association. During her suspension, she was required to do certain things in order to have her registration reinstated, but she did not participate. She did not work again as an RN in Alberta, but moved to Prince Edward Island in 1995 and completed an RN refresher program in 2000.

Between the years 2000 and 2010, Cathy Kaptein lost her job as a registered nurse half a dozen times because of addiction issues. In October 2009, after working part-time for over a year, she assumed a full-time position as a registered nurse at the Provincial Addictions Treatment Facility ("PATF") in Mount Herbert, Prince Edward Island, but two weeks later was sent to an addiction program for treatment. Upon completing the program, she returned to work (in February 2011), but was placed on administrative leave in August 2011 when she experienced a relapse in her addictions.

In July 2011, a complaint was received by the Association of Registered Nurses of PEI that alleged that Cathy Kaptein used opiates while on duty at the PATF. She admitted guilt in an Agreed Statement of Facts on July 29, 2015, and on May 18, 2017, she was found guilty of conduct unbecoming the profession of nursing and professional misconduct. Her license had conditions for two years, ending on May 18, 2019, and

conditions were placed on her license, including a condition that she abstain from the use of all mind-altering substances.

The present complaint was received by the College of Registered Nurses on August 22, 2019, only a couple of months after she had finished her conditions. Upon receiving the complaint, the College suspended Ms. Kaptein's registration, under section 53 of the RHPA. Despite her lengthy addictions history, or more accurately, because of it, Cathy Kaptein has again allowed alcohol and drugs to interfere with her professional obligations as a registered nurse.

The Agreed Statement of Facts presented at the Hearing on July 30, 2020 states that Cathy Kaptein was working as a registered nurse for two employers – Canadian Blood Services and Geneva Villa Independent Living Facility – in August 2019.

In the early part of that month, Ms. Kaptein was ill as a result of discontinuing a number of medications. She began to consume alcohol to alleviate the symptoms. She missed three days at Canadian Blood Services and called in sick again on Thursday, August 8, 2019, but then showed up for work in uniform, appearing confused, pale, and sweating. Earlier that morning (9:00 a.m.), she had gone to work at Geneva Villa, and drew blood from a resident. She left at approximately 9:30 a.m. and went to CBS.

On Thursday, August 15, 2019, Ms. Kaptein was not scheduled for work, but attended at Canadian Blood Services to assist with decorating a float for the annual Gold Cup Parade. When she arrived, her supervisor (one of the Complainants) smelled alcohol from her, saw that her balance was unsteady, and heard slurred speech from her. She told him that she had been drinking for a week straight at that point, and that she had received 20 x 5 mg Valium on August 12<sup>th</sup> to help with alcohol withdrawal, with instruction to take no more than 4 tablets per day, but she had taken all 20 tablets by the end of Wednesday, August 14<sup>th</sup>.

This is serious business. It is clearly professional misconduct to go to work in the midst of an alcohol binge, or while experiencing withdrawal from medication, for that matter. On both occasions, people at work confronted her and questioned what she was doing. Had they not done this, who knows what Ms. Kaptein might have done, or what mistakes she might have made. Ms. Kaptein should not have been working, and should not have been at the workplace. She appears to be suffering from the same addiction issues which have plagued her for years.

The Regulated Health Professions Act ("RHPA") defines "professional misconduct" in section 57 to include a contravention of the standards of practice or code of ethics, among other things. The Standards for Nursing Practice in this jurisdiction includes rules about "Being Accountable" (Standard G of Part 1):

Nurses are accountable for their actions and answerable for their practice.

Ethical Responsibility 5 says this:

Nurses maintain their **fitness to practice**. If they are aware that they do not have the necessary physical, mental or emotional capacity to practice safely and competently, they withdraw from the provision of care after consulting with their employer. If they are self-employed, they arrange for someone else to attend to their clients' health-care needs. Nurses then take the necessary steps to regain their fitness to practice, in consultation with appropriate professional resources.

It is also one of the seven primary values in our Code of Ethics that "Nurses provide safe, compassionate, competent and ethical care."

The RHPA also states that professional misconduct occurs where "the conduct is harmful to the best interests of a client or other person, or to the integrity of a profession." (Section 57)

Registered nurses must be responsible handlers of alcohol and drugs or the public will lose faith in our profession.

Exhibit B of the Agreed Statement of Facts refers to several times when Cathy Kaptein agreed to, or was required to, refrain from using alcohol and drugs for a period of time, but she was unable to comply on those occasions. Her decision to self medicate with alcohol and drugs in August 2019 was a serious error, and is professional misconduct.

As noted earlier, Cathy Kaptein actually drew blood from a client on August 8, 2019, when she was under the influence of alcohol or drugs. We regard that as incompetence as well as professional misconduct, due to the obvious risk to public safety. Every nurse knows that her judgment and ability cannot be impaired when working with members of the public. Cathy Kaptein is guilty of incompetence.

## ORDER

Gary Demeulenaere and Cathy Kaptein both made submissions to the Committee with respect to an appropriate penalty in this case. Mr. Demeulenaere provided a document with some suggested clauses. Ms. Kaptein acknowledged her guilt and stated that she recognizes that a suspension is necessary, but she hopes to deal with her affliction.

The Hearing Committee feels that Cathy Kaptein should not be practising nursing until she is well, and she has taken control of her addictions, and her life. We have decided that lengthy suspension of her registration is needed. In reaching our conclusion, we acknowledge that she took part in the hearing and agreed to an Agreed Statement of Facts, which saved the time and expense of a full hearing. She was also cooperative and seemed to be self-aware on the day of the Hearing. She has taken steps to work on her sobriety – she has attended both the Provincial Addictions Treatment Facility and an out-of-province treatment facility. But she needs to do more to show that she can practice safely.

For the reasons stated above, we have decided to issue the following Order under the authority of section 58(2) of the RHPA:

1. The member will be issued a formal reprimand from the College of Registered Nurses of Prince Edward Island (CRNPEI). The reprimand shall be prepared by the Coordinator of Regulatory Services, for review and approval by the Chair, and will be sent to the Member, and a copy will be kept in the Member's file at CRNPEI.
2. The Member's registration, being Registered Nurse #003088, is suspended for a period of eighteen (18) months effective September 2, 2020. On that date, the Member must stop practising as a registered nurse.
3. During the period of suspension of registration:
  - a. The Member will abstain from all mood- or mind-altering substances including alcohol, illicit or street drugs, including cannabis and any prescription medications not prescribed to her or approved in advance by her family physician (currently Dr. George Carruthers);
  - b. The Member shall submit to random urine testing at least once per month, at her own expense, and as often as required by the CRNPEI Coordinator of Regulatory Services. For these purposes, her family physician's office or another healthcare practitioner accessible to CRNPEI may conduct the testing. The Member's urine tests shall be completed within 24 hours after the Member receives the notice from the CRNPEI Coordinator of Regulatory Services. The results of all such random urine tests must be immediately reported to the CRNPEI Coordinator of Regulatory Services, and it is the Member's responsibility to make sure that this happens;
  - c. The Member will participate actively and fully engage in an addiction recovery program approved by the CRNPEI Coordinator of Regulatory Services;
  - d. The Member will immediately provide to CRNPEI and maintain an open consent to make periodic inquiries to her family physician (currently Dr. Carruthers) as to her addictions issues and treatment. The Member will immediately inform CRNPEI if she changes her family physician. If the Member changes family physicians, she will immediately inform her physician of her addictions history and provide her/him with a copy of these conditions. The Member will immediately provide to CRNPEI and maintain an open consent to make periodic inquiries to healthcare

professionals, addiction counsellors, and mental health treatment providers as to her addictions issues and treatment;

- e. The Member will provide CRNPEI a copy of the psychiatric assessment completed May 28, 2020 by Dr. Johnston. In the event that the member fails to comply with any part of this Order, the Hearing Committee will review Dr. Johnston's assessment in deciding what further action to take.
4. Beginning no later than three (3) months after the Member resumes employment as a registered nurse, the Member shall comply with an annual continuing competency audit coordinated by the CRNPEI Coordinator of Regulatory Services, which shall include assessment of continuing competence related to Standards 1, 2, and 3 of the CRNPEI Standards for Nursing Practice, as well as the CNA Code of Ethics. These audits shall be additional to and are independent of any continuing competency requirements under the RHPA and shall continue for two (2) years from the date the suspension is finished. The results of these audits shall be provided by the member to the Coordinator of Regulatory Services, who will review them and provide them to the members of this Committee for action if there are any issues of concern
  5. After 18 months of suspension, and provided that the requirements of section 3 have been met, the Member may resume practice as a registered nurse, but she must continue to meet all of the requirements of section 3 above (except e, which will have been fulfilled) for a further period of two (2) years from the date the suspension is finished. She must also comply with the following:
    - a. The Member shall not practice as a registered nurse in any position where she has access to, or is required to handle, narcotics, opiates, benzodiazepines, anxiolytics or any other mood- or mind-altering medications;
    - b. On the first day of every month, the member will ensure that her addictions counsellor or other responsible health-care professional with knowledge of her circumstances provides a short, written report to the CRNPEI Coordinator of Regulatory Services, confirming that the Member is participating successfully in addictions treatment.
  6. In the event that the Member fails to comply with any of the requirements of this Order, including even one failed random urine screen, the CRNPEI Coordinator of Regulatory Services will reconvene the Hearing Committee to review the matter and decide whether the Order needs to be changed, or added to. In this way, the Member will be subject to the scrutiny of the College for at least four

years from the date of this decision. Whether that scrutiny lasts longer will depend on Ms. Kaptein.

7. The Member shall pay a fine to CRNPEI in the amount of five hundred (\$500) dollars. At the Member's option, this payment may be made in consecutive monthly installments of fifty (\$50) dollars each, commencing on the month after the end of the 18 month suspension and continuing on the first day of every month thereafter until paid in full. In deciding on this penalty, the Hearing Committee considered all of the factors mentioned in section 58(2.1) of the RHPA.
8. During the entire period that her license is under suspension and she is subject to conditions on her registration, the Member shall promptly make all present and future employers aware of this decision by providing a copy of it to them and requesting that any such employers confirm receipt of a copy of the decision to the CRNPEI Coordinator of Regulatory Services within two (2) weeks of the Member resuming or commencing employment.
9. The Member shall keep CRNPEI notified of her address and phone number and promptly report any change in either within forty-eight (48) hours of such change.

Ms. Kaptein is put on notice that she has the right to appeal this determination and the Order described above within 30 days of being served with this decision document, and she may refer to section 59(2) of the RHPA should she decide to appeal.

Respectfully submitted at Charlottetown, Prince Edward Island this 2<sup>nd</sup> day of September, 2020.

A handwritten signature in black ink that reads "Chelsea Chessman". The signature is written in a cursive, flowing style.

Chelsea Chessman, Chair of the Hearing Committee