

Hearing Committee Notice of Order

Complaint # 2020-001

Re: Yvonne Mariwande, Member Registration #004722

A Hearing Committee of the College of Registered Nurses of Prince Edward Island (the "Committee") conducted a hearing in Charlottetown, PE on January 5, 6, and 21, 2021, to consider a complaint dated June 4, 2020 against Registered Nurse Yvonne Mariwande, registration number 004722. The results of the hearing are presented in the Hearing Committee Notice of Determination dated February 22, 2021. The following is a companion document, the Notice of Order. After providing the Notice of Determination to the prosecutor and the respondent, the Committee reconvened on March 23, 2021 to give them an opportunity to make recommendations on penalty.

Members of the Committee in attendance at the March 23 hearing were: Chelsea Chessman (Chair); Janet MacIntyre (member); and Phyllis Horne (public representative). Also in attendance were: Respondent Yvonne Mariwande; Prosecutor Gary Demeulenaere; and Legal Counsel and Advisor for the Committee Doug Drysdale. A representative from Island Confidential Associates Inc. (Christine MacDougall) audio recorded the penalty hearing.

In the Notice of Determination, the Committee decided:

Allegation 1

The Committee determined that member Yvonne Mariwande is guilty of professional misconduct in Allegation 1. The Committee found Ms. Mariwande not guilty of incompetence as it relates to this allegation.

Allegation 2

The Committee determined that member Yvonne Mariwande is guilty of professional misconduct and incompetence in Allegation 2.

Allegation 3

The Committee determined that there is insufficient evidence to support a guilty verdict with regards to this allegation.

PENALTY

Section 58(2) and (2.1) of the RHPA allows the Committee to issue various orders in the nature of penalties, including a reprimand, the requirement of additional training, counselling, imposing terms and conditions on the registration, an order requiring the respondent to pay all or a portion of the costs associated with the hearing, a fine, a

suspension or cancellation of registration, or any other sanction that the hearing committee considers appropriate.

According to section 58(2.1), factors to be considered before issuing a fine include the extent of the member's awareness of the fault; degree of risk or harm to the client; potential for further risk to the public; potential effect on the member's profession; potential effect on the member's ability to earn a livelihood; any other restriction or remediation voluntarily taken on by the member; or any other prescribed factor. The Committee considered these factors in reaching its decision.

The Committee has decided that the following penalty is appropriate for a number of reasons. Ms. Mariwande has been involved in a previous, similar complaint at CRNPEI and was being investigated at the time the complaint in this case was received. Because she was being investigated, but had not yet had a hearing or notice of determination and order, the Committee felt she would not have had the formal information to cause her to correct her practice by the time the second complaint was made. The timing of the two complaints overlapped and they were not clearly one after the other, so this complaint cannot be treated solely as a second event for penalty purposes. Had Ms. Mariwande received the decision in Complaint No. 2019-005 with sufficient time before the second complaint was received by CRNPEI for her to change her behaviour, the penalty in this case might well have been more severe.

With regard to the lift incident (Allegation 2), despite the fact that no one was injured, the decision Ms. Mariwande made to go against the hospital policy opened up the possibility that harm or even death could have occurred. As a senior nurse, she is expected to be a positive role model for junior co-workers, displaying respect for the policies and procedures of the institution and the best attributes of the profession. Clearly, she failed in that regard, and she was aware of what she was doing.

The Committee also notes that some of the past behaviours that were brought up during the hearing (evidence related to Allegation 1) were never brought to Ms. Mariwande's attention. In the instance with supervisor Cathy Boylan, Ms. Boylan testified that it was a "one off" event and never bothered to report or confront Ms. Mariwande with this information, making it unlikely that she would correct the behaviour. The Committee does note, however, that Ms. Mariwande had frequently displayed an attitude towards others that was described at the hearing as disrespectful and rude. It was also mentioned by Jana Corish and Ms. Mariwande herself that she had been spoken to by her employer about this behaviour before, both formally and informally. It is evident that she is aware that her attitude has been an issue in the past as it has been brought to her attention, but she had failed to correct it. We feel it is a pattern of behaviour that needs to be corrected, not just the specific interaction with the co-worker.

The Committee has decided that the following penalty is appropriate in the circumstances of this case and so orders:

1. The Respondent 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 Respondent, while a copy will be kept in the Respondent's file at CRNPEI.
2. The Respondent's registration to practice nursing shall be suspended for a period of one (1) month, effective the date this decision is delivered to her.
3. Within one month of the end of the suspension, the Respondent will take and successfully complete a full day instructional course on workplace ergonomics as it relates to nursing approved by the Coordinator of Regulatory Services for the College of Registered Nurses of Prince Edward Island.
4. Beginning at the end of the suspension and within every six (6) months for the next three (3) years, the Coordinator of Regulatory Services for the College of Registered Nurses of Prince Edward Island will complete a workplace audit with reports on Ms. Mariwande outlining: work performance; use of appropriate communication and interactions with coworkers, patients/residents and their families; the ability to work effectively with other members of the health care team; conflict resolution skills; and respect for coworkers, patients/residents and their families. These reports will be placed on Ms. Mariwande's file at CRNPEI and a copy sent to the Chair of this committee.
5. The Respondent shall pay a fine in the amount of five hundred dollars (\$500.00) to the College of Registered Nurses of Prince Edward Island. This fine will be payable following the payment of the fine she is currently paying in relation to Complaint No. 2019-005. This fine shall be paid in full no later than December 31, 2022.
6. The Respondent shall pay CRNPEI the amount of five hundred dollars (\$500.00) to cover a portion of the expenses associated with the investigation and hearing of this complaint. Payment of this compensation will commence following the payment of the current fine. This amount shall be paid in full no later than December 31, 2022.
7. The Respondent shall provide a copy of the Notice of Determination and this Notice of Order to her employer or employers or to any employer who offers her employment as a Registered Nurse. The Respondent shall provide written verification to CRNPEI from the employer that the employer has received this decision, within ten days of this decision or the date of being employed, as the case may be, and the obligation will continue for 3 years from the date of this decision.
8. In the event that the Respondent fails to comply with any of the above orders, or if the results of any of the performance audit reports are not satisfactory, the

Committee will review the circumstances at that time, and may suspend Yvonne Mariwande's registration for a further period of time or add another penalty.

At the conclusion of the hearing into Complaint 2019-005, Ms. Mariwande was ordered to complete courses on effective communication, teamwork, conflict resolution, and safe and respectful workplaces. Although these courses were not taken voluntarily, this Committee has decided that it would be redundant to ask her to complete these courses again and prefers a different approach, which we hope will show that these courses had a positive effect on her professional presence in the workplace. For this reason, we are asking for audit reports.

The decision for a suspension of her registration was not taken lightly. The Committee felt that it was necessary given the degree for potential harm that existed and is essential to act as a deterrent to the Respondent and the membership. Coupled with the behaviours and attitude which are the focus of Allegation 1, the deliberate choice to act against the rules in Allegation 2 have convinced us that Ms. Mariwande needs to pause and reflect on her practice, and realize that poor decisions have real consequences.

A fine is also necessary to act as a deterrent to the respondent and other members of the profession, and to send a message that what she has learned in her recent courses must be applied in practice. Ms. Mariwande is currently paying a fine as the result of the other complaint, and has dependants that she supports, therefore the Committee took that into account as a mitigating factor. The amount of the fine is not significant because we believe that Ms. Mariwande can improve her behaviour and become a better nurse. The amount of the fine issued in this decision is small and unlikely to create undue hardship for the member; however, the Committee did want to impress upon her the seriousness of the situation and the need to demonstrate respect, kindness, and cooperation in our profession.

Ms. Mariwande did have several letters of support which she offered to the Committee as evidence explaining that she was regarded as a kind and competent nurse by some of her co-workers. We have taken these letters into account when deciding to encourage Ms. Mariwande, through the orders listed above, to improve her practice. We hope there will be no further issues regarding any of the professional issues against Ms. Mariwande outlined in the complaint.

The respondent may appeal this decision or any of the orders noted above to the Supreme Court of Prince Edward Island within thirty days of receiving this decision (section 59 RHPA).

Respectfully submitted at Charlottetown, Prince Edward Island this 22 day of April, 2021.


Chelsea Chessman, Chair of the Hearing Committee