

COLLEGE AND ASSOCIATION OF REGISTERED NURSES OF ALBERTA also known as
COLLEGE OF REGISTERED NURSES OF ALBERTA (the “**College**”)

DECISION OF THE HEARING TRIBUNAL

RE: CONDUCT OF **CHANTELLE JENSEN**, R.N. REGISTRATION #**106,105**

AS A RESULT OF A HEARING HELD BEFORE

THE HEARING TRIBUNAL

OF THE COLLEGE

11120 178 STREET

EDMONTON, ALBERTA

ON

April 20, 2022

INTRODUCTION

A virtual hearing was held on **April 20, 2022** by the Hearing Tribunal of the College of Registered Nurses of Alberta (“**College**” or “**CRNA**”) to hear a complaint against Chantelle Jensen, R.N., registration #106,105.

The Hearing Tribunal, at a special meeting held prior to this hearing, accepted an admission by Chantelle Jensen under section 70 of the *Health Professions Act*, RSA 2000, c. H-7 (“**HPA**”) pertaining to the behaviour admitted to in a letter dated December 14, 2021 from Chantelle Jensen to CRNA and a written admission signed by Chantelle Jensen on March 15, 2022.

Those present at the hearing were:

a. Hearing Tribunal Members:

Bonnie Bazlik, Chairperson

Claire Mills

Anita Warnick, Public Representative

David Rolfe, Public Representative

b. Independent Legal Counsel to the Hearing Tribunal:

Julie Gagnon

c. CRNA Representative:

Vita Wensel, Conduct Counsel

d. Registrant Under Investigation:

Chantelle Jensen (sometimes hereinafter referred to as “the **Registrant**”)

e. Registrant’s Labour Relations Officer:

Silvie Montier

f. CRNA Staff

Jennifer Bullaj, Conduct Clerk

g. Observers:

Maggie Convey

Leeca Sonnema

PRELIMINARY MATTERS

Conduct Counsel and the Labour Relations Officer for the Registrant confirmed that there were no objections to the composition of the Hearing Tribunal or to the Hearing Tribunal’s jurisdiction to proceed with the hearing. No preliminary applications were made.

The Chairperson noted that pursuant to section 78 of the HPA, the hearing was open to the public. No application was made to close the hearing.

ALLEGATION AND ADMISSION

The conduct admitted to by the Registrant is as follows:

While employed as a Registered Nurse ("RN") at [a Medical Centre] in Calgary, Alberta (the "**Medical Centre**"), the Registrant's practice fell below the standard expected of a RN when:

- a. Between January 1, 2020 and September 30, 2021, the Registrant failed to demonstrate adequate judgment and failed to ensure a client's right to confidentiality and privacy, contrary to the Canadian Nurses Association Code of Ethics (2017) ("**Code of Ethics**"), the Practice Standards for Regulated Members (2013) ("**Practice Standards**"), Privacy and Management of Health Information Standards (2020) ("**Privacy Standards**"), when they accessed the personal health care information and records of:
 - i. Approximately twenty (20) persons where the Registrant used Netcare instead of the appropriate database, to provide information to other facilities inquiring about clients;
 - ii. On multiple occasions, the Registrant's own health care information;
 - iii. On numerous and separate occasions, the Registrant's family members and previous family members; and
 - iv. On one (1) occasion, the Registrant's clinical supervisor.

(collectively referred to as the "**Conduct**").

The Registrant has admitted to the Conduct in the Agreed Statement of Facts and Liability dated March 15, 2022 (Exhibit #4).

EXHIBITS

The following documents were entered as Exhibits:

- Exhibit #1 – Notice to Attend a Hearing by the Hearing Tribunal of the College of Registered Nurses of Alberta
- Exhibit #2 – Section 70 Admission Letter
- Exhibit #3 – Complaint Letter
- Exhibit #4 – Agreed Statement of Facts and Liability
- Exhibit #5 – Appendices to Agreed Statement of Facts and Liability
- Exhibit #6 – Joint Recommendation on Sanction

Exhibit #7 – Excerpt from *Jaswal v. Newfoundland Medical Board*.

SUBMISSIONS ON THE ALLEGATION

Submissions by Conduct Counsel:

Conduct Counsel made brief submissions on the allegation. Conduct Counsel reviewed the Agreed Statement of Facts and Liability (Exhibit #4) and the Appendices to the Agreed Statement of Facts and Liability (Exhibit #5).

Conduct Counsel also noted that the following provisions from the Code of Ethics applied: E1, E7, E8, E9, E11 and G1. Conduct Counsel noted that the following Practice Standards were applicable: Standards: 1.2, 3.2, 5.2, 5.3. Conduct Counsel noted that the following Privacy Standards were applicable: 1.1, 1.2, 1.7. Conduct Counsel submitted that the Conduct constitutes unprofessional conduct under sections 1(1)(pp)(i) and (ii) of the HPA.

Submissions by the Labour Relations Officer for the Registrant:

The Labour Relations Officer made brief submissions. She noted that there was no authorized reason for any access to the files and the Registrant does not contest any of the alleged breaches. The Registrant recognizes that the Conduct was not appropriate.

The Registrant's Labour Relations Officer noted that the Registrant's letter of admission does provide some explanation as to why she accessed the files. This is not an excuse for the Conduct but to provide an explanation.

Questions from the Hearing Tribunal:

The Hearing Tribunal adjourned to review and consider the materials and submissions. The Hearing reconvened and the parties were asked to provide further submissions on the applicability of provision E9 of the Code of Ethics.

Conduct Counsel indicated that she was prepared to withdraw that provision. The Registrant's Labour Relations Officer has no objections to it being withdrawn.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON THE ALLEGATION

The Hearing Tribunal finds that the Conduct admitted to by the Registrant under section 70 of the HPA is proven. Based on the admission of the Registrant, the Hearing Tribunal finds that while employed as an RN at a Medical Centre in Calgary, Alberta, the Registrant's practice fell below the standard expected of a RN when:

- a. Between January 1, 2020 and September 30, 2021, the Registrant failed to demonstrate adequate judgment and failed to ensure a client's right to confidentiality and privacy, contrary to the Code of Ethics, Practice Standards, Privacy Standards, when they accessed the personal health care information and records of:
 - i. Approximately twenty (20) persons where the Registrant used Netcare instead of the appropriate database, to provide information to other facilities inquiring about clients;

- ii. On multiple occasions, the Registrant's own health care information;
- iii. On numerous and separate occasions, the Registrant's family members and previous family members; and
- iv. On one (1) occasion, the Registrant's clinical supervisor.

The Hearing Tribunal accepts the facts set out in the Agreed Statement of Facts as proven. The agreed facts are outlined below.

In April 2017, the Registrant graduated with a bachelor's degree in nursing from Athabasca University, In July 2017, the Registrant registered with the College. The Registrant practiced as a Licensed Practical Nurse for approximately six (6) years prior to becoming an RN.

On October 25, 2021, the Complaints Director received a written complaint pursuant to section 57 of the HPA due to the Registrant being terminated from her position at the Medical Centre in Calgary, Alberta. The complaint alleged concerns regarding the Registrant's repeated access to private health care information.

The Registrant had no direct care relationship with any of the individuals outlined in the Conduct. The Registrant had no authorized reason as an RN to access the health care information of herself, her family members, previous family members or her clinical supervisor. The Registrant accessed the health care information via Netcare.

The Hearing Tribunal finds that the proven Conduct constitutes unprofessional conduct pursuant to section 1(1)(pp)(i) and (ii) of the HPA, which states:

“Unprofessional conduct” means one or more of the following, whether or not it is disgraceful or dishonourable:

- (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- (ii) contravention of this Act, a code of ethics or standards of practice.

The Hearing Tribunal finds that the Conduct displayed a very serious lack of knowledge, skill or judgment in the provision of professional services. The Registrant accessed Netcare through her employment to obtain information about clients, herself, family members and her clinic supervisor. She accessed Netcare for purposes that were not related to treatment of clients or her professional responsibilities. She also accessed Netcare to provide information to other facilities inquiring about clients, rather than using the appropriate database. There was a repeated pattern of incidents over a period of time. This shows a grievous lack of knowledge, skill or judgment in the manner she exercised her professional responsibilities.

The Hearing Tribunal also finds that the Registrant breached the following provisions of the Code of Ethics: E1, E7, E8, E11 and G1:

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.

Ethical responsibilities:

1. Nurses respect the interests of persons receiving care in the lawful collection, use, access and disclosure of personal information.
7. Nurses respect policies that protect and preserve the privacy of persons receiving care, including security safeguards in information technology.
8. Nurses do not abuse their access to information by accessing health-care records, including those of a family member or any other person, for purposes inconsistent with their professional obligations. When using photo, video or other technology for assessment, diagnosis, planning, implementation and evaluation of persons receiving care, nurses obtain their consent and do not intrude into their privacy. They handle photos or videos with care to maintain the confidentiality of the persons involved, including colleagues and students.
11. In all areas of practice, nurses safeguard the impact new and emerging technologies can have on patient privacy and confidentiality, **professional boundaries**, and the professional image of individual nurses and the organizations in which they work (CNA, 2012). They are also sensitive to ethical conduct in their use of electronic records, ensuring accurate data entry and avoiding the falsification or alteration of documentation.

G. Being Accountable

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

Ethical responsibilities:

1. Nurses, as members of a self-regulating profession, practice according to the values and responsibilities in the Code and in keeping with the professional standards, laws and regulations supporting ethical practice.

In addition, the Hearing Tribunal finds that the Registrant breached the following provisions of the Practice Standards: 1.2, 3.2, 5.2, 5.3:

Standard One: Responsibility and Accountability

The nurse is personally responsible and accountable for their nursing practice and conduct.

Indicators

- 1.2 The nurse follows current legislation, standards and policies relevant to their practice setting.

Standard Three: Ethical Practice

The registered nurse complies with the *Code of Ethics* adopted by the Council in accordance with Section 133 of *Health Professions Act* and CARNA bylaws (CARNA, 2012).

Indicators

- 3.2 The nurse protects and promotes a client's right to autonomy, respect, privacy, dignity and access to information.

Standard Five: Self-Regulation

The nurse fulfills the professional obligations related to self-regulation.

Indicators

- 5.2 The nurse follows all current and relevant legislation and regulations.
- 5.3 The nurse follows policies relevant to the profession as described in CARNA standards, guidelines and position statements.

Finally, the Hearing Tribunal finds that the Registrant breached the following provisions of the Privacy Standards: 1.1, 1.2, 1.7:

Standard One: All Regulated Members

Regulated members are responsible and accountable for ensuring they follow all relevant privacy legislation and policies, and understand the privacy requirements that apply to their nursing practice.

- 1.1 access personal and health information, including electronic health records (EHR), only for purposes that are consistent with their professional responsibilities;
- 1.2 collect, use, and disclose only health information that is essential for the intended purpose, with the highest degree of confidentiality possible, and in accordance with legislation;
- 1.7 report any inappropriate access or disclosure of personal or health information of persons receiving care.

In addition to the inappropriate access of client information, the Registrant accessed personal health care information of several individuals that were not clients contrary to the clear provisions of Practice Standards, Privacy Standards and Code of Ethics.

All of these breaches are extremely serious. Personal health information is among the most confidential and private information of individuals. Clients receiving care, as well as the public generally, must have confidence that health professionals safeguard this very private and sensitive information and access it only as permitted and where it is relevant to the professional services being provided to the individual whose information is accessed.

The breaches of the Practice Standards, Privacy Standards and the Code of Ethics are egregious and clearly constitute unprofessional conduct pursuant to section 1(1)(pp)(ii) of the HPA.

SUBMISSIONS ON SANCTION

The Hearing Tribunal heard submissions on the appropriate sanction.

Submissions by Conduct Counsel:

Conduct Counsel noted there was a joint recommendation on sanction and reviewed the Joint Recommendation on Sanction (Exhibit #6).

Conduct Counsel noted that it was the position of the Complaints Director that the joint recommendation on sanction is appropriate, fit and proportional. Conduct Counsel noted that pursuant to the decision of the Supreme Court of Canada in *R. v. Anthony-Cook*, the Hearing Tribunal must give a high level of deference to a joint recommendation on sanction.

Conduct Counsel reviewed the factors in the decision of *Jaswal v. Newfoundland Medical Board* and how those factors applied to the present case.

1. The nature and gravity of the proven allegation: Conduct Counsel noted the repeated pattern of behaviour, which was a pattern that was personally motivated, whether out of curiosity or for personal reasons. She noted the breaches were serious and an abuse of power and trust.
2. The age and experience of the member: The Registrant has been registered since 2017, but was licensed as a licensed practice nurse for six years prior to her registration as a registered nurse. She has several years of experience in the health care industry.
3. The previous character of the member: The Registrant has no prior discipline findings or complaints with CRNA.
4. The age and mental condition of the offended patient: There was a variety of individuals whose information was accessed, including family members, a supervisor, and former clients who may be considered quite vulnerable.
5. The number of times the offence was proven to have occurred: There was a repeated pattern. She did not stop to consider her actions but continued to access personal health information on several occasions.
6. The role of the registered nurse in acknowledging what occurred: The admission is a mitigating factor, however, Conduct Counsel noted that the original breach was determined by the Registrant's employer through an audit. This was not a case where the Registrant learned through her mistakes and came forward with her conduct.
7. Whether the member has already suffered other serious financial or other penalties: The Registrant was terminated from her employment. This is a serious consequence, although she did find work by the time her admission to CRNA was made.
8. The impact on the offended patient: Privacy of patient care is expected by patients. There is a significant impact of the Conduct which fosters a lack of trust in the health care system and in health care providers generally.
9. The presence or absence of any mitigating factors: Conduct Counsel noted the admission as a mitigating factor and the Registrant's cooperation in the hearing process.

10. The need to promote specific and general deterrence: The proposed sanction, including the fine are important for specific and general deterrence. Deterrence is paramount in this case.
11. The need to maintain public confidence: It is incredibly important that that the public have confidence in health care providers to respect the rules regarding personal health information.
12. Degree to which offensive conduct is outside the range of permitted conduct: The breaches here are clear.
13. The range of sanction in similar cases: Conduct Counsel noted that she could provide further information from other cases, but that in her submission, the proposed sanction was fit, proportional and reasonable.

Submissions by the Labour Relations Officer for the Registrant:

The Labour Relations Officer addressed some of the *Jaswal* factors. She noted that any offence that amounts to unprofessional conduct is a serious offence. The Registrant recognizes this.

With respect to the submission of Conduct Counsel that the Conduct was found out through audit, the Labour Relations Officer noted the fact it was discovered through audit should not be held against the Registrant.

The Labour Relations Officer noted that there were no separate complaints from members of the public or clients.

In terms of mitigating factors, the Labour Relations Officer noted that the Registrant was grieving at the time of the Conduct and was facing a very difficult personal situation. While this does not excuse the behaviour, it provides context and an explanation.

The sanction is appropriate and in particular, the need to prepare a paper will require the Registrant to reflect on what she has done. The paper will have a lot of value in terms of ensuring the Registrant understands the Conduct. The course is directly on point and the fine is reasonable.

Reply Submissions by Conduct Counsel:

Conduct Counsel noted that she raised the audit to highlight that in the Practice Standards, Privacy Standards and Code of Ethics, the RN is accountable and responsible to show insight. The Registrant did not show insight into her behaviour until after the Conduct was discovered through an audit.

DECISION AND REASONS OF THE HEARING TRIBUNAL ON SANCTION AND PUBLICATION

The Hearing Tribunal adjourned to consider the submissions on sanction. The Hearing Tribunal has carefully considered the joint submissions on sanction, compliance and conditions and the submissions of the parties. The Hearing Tribunal has considered the factors noted in *Jaswal v. Newfoundland Medical Board*. For the reasons set out below, the Hearing Tribunal accepts the joint recommendation on sanction.

The Hearing Tribunal found the Conduct to be egregious. The Registrant showed flippancy and disregard for the laws, policies and rules (including Practice Standards and the Code of Ethics) around personal health information. There was a proven pattern of misconduct and the Registrant did not show insight into her Conduct until the Conduct was discovered through an audit and a complaint was made to CRNA.

The Hearing Tribunal found it very troublesome that there were so many breaches that occurred over a period of time. The Registrant worked with a very vulnerable population and was accessing not only client information but personal information about family members and her clinical supervisor. She exploited the trust placed in her by her employer, her clients and the public, repeatedly and over a period of time. The Registrant's Conduct seriously undermined the public trust. There is a serious impact on the public trust and the trust placed in the profession of registered nursing.

The Registrant displayed an arrogance that is extremely troublesome. While the Registrant had difficult personal circumstances, she accessed Netcare as though it was a social media platform, to satisfy her curiosity. None of the explanations provided by the Registrant explain or excuse the Conduct.

Further, the Hearing Tribunal accepted the submissions of Conduct Counsel that while the Registrant admitted to the Conduct, this was only done after an audit by her employer. While still a mitigating circumstance, the Registrant did not take accountability or responsibility at the time as required by the Practice Standards, Privacy Standards and Code of Ethics.

The Registrant's Conduct has eroded the public trust. The Hearing Tribunal wished to send a very clear message to the Registrant and to the profession that such conduct will not be tolerated.

The Hearing Tribunal considered the specific orders being sought. The Hearing Tribunal views that the reprimand is appropriate. The course is directly on point and is appropriate in this case. The Hearing Tribunal agrees with the submissions of the parties that the paper will provide the Registrant with a chance for reflection and insight. The Hearing Tribunal considered that the fine was a low amount. The Hearing Tribunal wished to note that had the Registrant not entered into an admission and joint recommendation on sanction, it is likely that the sanction imposed would have been considerably more onerous.

However, the Hearing Tribunal was mindful of the principles in *R. v. Anthony-Cook* and the deference that is owed to a joint recommendation on sanction. Having regard to all of the circumstances, the Hearing Tribunal did not find that the high threshold in *R. v. Anthony-Cook* to reject a joint submission was met (that the joint sanction was so unhinged from the circumstances of the case that it would lead an informed person to conclude that the proper functioning of the justice system had broken down). The Hearing Tribunal recognized the benefits of an admission and the importance of promoting certainty in resolution discussions. In the circumstances, the Hearing Tribunal was prepared to find that the joint recommendation on sanction was reasonable and serves to protect the public interest.

ORDERS OF THE HEARING TRIBUNAL

The Hearing Tribunal orders that:

SANCTION

1. The Registrant shall receive a reprimand for unprofessional conduct.
2. By **September 12, 2022**, the Registrant shall provide proof satisfactory to the Complaints Director that they have successfully completed and passed the following courses of study and learning activities:
 - a. ***Privacy and Management of Health Information (CRNA eLearning on College Connect)***.
3. By **September 12, 2022**, the Registrant shall write and submit a paper to the Complaints Director, which must be deemed satisfactory to the Complaints Director. The paper shall:
 - a. be titled **“The Importance of Privacy in Health Care: What it Means to My Practice as a RN”**;
 - b. be at least **three thousand (3000)** words in length;
 - c. be typed and comply with professional formatting guidelines (American Psychological Association style);
 - d. demonstrate an understanding of:
 - i. the importance of privacy in health care;
 - ii. the responsibilities of a RN when managing and accessing health care information; and
 - iii. the importance of maintaining the privacy and confidentiality of health care information as a RN.
 - e. Include a specific analysis of how failures of the health care team to maintain patient privacy are harmful to:
 - i. the public (patients, families and communities);
 - ii. the reputation of the profession of nursing; and
 - iii. the Registrant’s own career.
 - f. demonstrate insight into why the conduct of the Registrant, as outlined in this Agreement, were unacceptable, citing specifically the *CRNA Practice Standards* and the *Code of Ethics*; and
 - g. have a bibliography of at least **ten (10)** references (no older than ten years old), one of which must be the *Practice Standards* and *Code of Ethics* and others of which must be from academic journals or textbooks.

4. By **September 12, 2022**, the Registrant shall pay a fine in the sum of **\$850.00**, via payment to the College (the "**Fine**"), and noting the following terms may apply:
 - a. Pursuant to Section 82(3)(c) of the *HPA*, the Registrant may be automatically suspended for any non-payment;
 - b. If the Registrant fails to pay the Fine by the deadline indicated, the Complaints Director may publish an administrative notice regarding non-payment of the Fine on the College's website including the Registrant's name and registration number and that the Fine arose from a resolution agreement with the College (the "**Administrative Notice of Non-Payment**"); and
 - i. the Registrant must pay the Fine owed to the College, whether or not the Registrant has an active practice permit with the College.
5. Within **fifteen (15) days** of the Registrant receiving a copy of the Hearing Tribunal's written decision, the Registrant shall provide a letter ("**Practice Setting Letter**") to the Complaints Director from the Registrant's RN or NP Supervisor (the "**Supervisor**") at their current place of employment ("**Practice Setting**"), confirming:
 - i. The Supervisor's name and contact information;
 - ii. The Practice Setting;
 - iii. The Registrant's role of employment;
 - iv. That the Supervisor has read and reviewed a copy of the Hearing Tribunal's Order.

(the "**Condition(s)**").

COMPLIANCE

6. Compliance with this Order shall be determined by the Complaints Director of the College. All decisions with respect to the Registrant's compliance with this Order will be in the sole discretion of the Complaints Director.
7. The Registrant will provide proof of completion of the above-noted Conditions to the Complaints Director via e-mail to procond@nurses.ab.ca or via fax at 780-453-0546.
8. Should the Registrant fail or be unable to comply with any of the requirements of this Order, or if any dispute arises regarding the implementation of this Order, the Complaints Director may exercise the authority under section 82(3) of *HPA*.
9. The responsibility lies with the Registrant to comply with this Order. It is the responsibility of the Registrant to initiate communication with the College for any anticipated non-compliance and any request for an extension.

CONDITIONS

10. The Registrant confirms the following list sets out all the Registrant's employers and includes all employers even if the Registrant is under an undertaking to not work, is on sick leave or

disability leave, or if the Registrant have not been called to do shifts, but could be called. Employment includes being engaged to provide professional services as a Registered Nurse on a full-time, part-time, casual basis as a paid or unpaid employee, consultant, contractor or volunteer. The Registrant confirms the following employment:

Employer Name	Employer Address & Phone Number
[omitted in this decision]	[omitted in this decision]

11. The Registrant understands and acknowledges that it is the Registrant's professional responsibility to immediately inform the College of any changes to the Registrant's employers, and employment sites, including self-employment, for purposes of keeping the Registrar current and for purposes of notices pursuant to section 119 of the *HPA*.
12. The Registrar of the College will be requested to put the following conditions against the Registrant's practice permit (current and/or future) and shall remain until the conditions are satisfied:
 - a. **Course work required – Arising from Disciplinary Matter;**
 - b. **Essay Required – Arising from a Disciplinary Matter;**
 - c. **Shall pay fine – Arising from Disciplinary Matter;** and
 - d. **Confirmation of Practice Setting(s) required - Arising from a Disciplinary Matter.**
13. Effective on the date of the Hearing, which is to be determined, or the date of this Order if different from the date of the Hearing, notifications of the above condition shall be sent out to the Registrant's current employers (if any), the regulatory college for Registered Nurses in all Canadian provinces and territories, and other professional colleges with which the Registrant is also registered (if any).
14. Once the Registrant has complied with a condition listed above, it shall be removed. Once all the conditions have been removed, the Registrar will be requested to notify the regulatory colleges in the other Canadian jurisdictions.
15. This Order takes effect on the date of the Hearing, which is to be determined, and remains in effect pending the outcome of any appeal, unless a stay is granted pursuant to section 86 of the *HPA*.

This Decision is made in accordance with Sections 80, 82 and 83 of the HPA.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bazlik", is written over a light gray rectangular background.

Bonnie Bazlik, Chairperson
On Behalf of the Hearing Tribunal

Date of Order: April 20, 2022