DECISION NO.  2015-HPA-086(b)

In the matter of an application under section 50.6 of the Health Professions Act, R.S.B.C. 1996, c. 183, as amended, (the “Act”) for review of a complaint disposition made by an Inquiry Committee

BETWEEN: The Applicant APPLICANT

AND: The College of Registered Nurses of BC COLLEGE

BEFORE: Karima Bawa, Panel Chair REVIEW BOARD

DATE: Conducted by way of written submissions concluding on October 23, 2015

APPEARING: For the Applicant: Self-represented

For the College Jason Herbert, Counsel

I INTRODUCTION

[1] The Applicant seeks review of a decision by the Registration Committee requiring her to complete certain coursework and provide confirmation of a prescribed psychiatric assessment in order to be eligible for reinstatement as a registered nurse.

[2] The Applicant was previously a Registered Nurse who worked for some years prior to letting her registration lapse. The Applicant has been seeking to be reinstated by complying with the requirements imposed by the Registration Committee, and while the Complainant has complied with many of the requirements imposed, she has not completed one of the courses (Consolidated Clinical Course) prescribed by the Registration Committee as a pre-requisite to her reinstatement. Also the Applicant has not provided the form of psychiatric assessment requested by the Registration Committee to confirm her current fitness to practice.

II BACKGROUND

[3] The Applicant has a degree of Bachelor of Science in Nursing which was conferred on her by the University of British Columbia in 1995.
After graduating from university, the Applicant worked as a Registered Nurse at Hospital A for a number of years before deciding to take a leave from nursing.

According to the College’s records, the Applicant last held practising registration in 2007.

After not practising as a Registered Nurse for a number of years, the Applicant decided she wanted to be reinstated as a Registered Nurse. She made inquiries with the College in 2012 to determine how she could be reinstated as a Registered Nurse.

By correspondence dated January 28, 2013 the Applicant was advised that she was not eligible for reinstatement to practising registration because she did not meet the continuing competence requirement of 1125 registered nursing practice hours within the past five years.

In the spring of 2014 the Applicant applied for registration with the College.

By correspondence dated May 13, 2014 the Applicant was again advised that she was not eligible for reinstatement to practising registration because she did not meet the continuing competence requirement of 1125 registered nursing practice hours within the past five years. She was also advised of the need to comply with the following registration requirements:

Registration Requirement
- Re-entry to nursing program or
- Supervised practice experience learning plan or
- Competency Assessment and Enhancement for Nurses (CAEN) and any identified coursework requirements.

The Applicant sought to meet the requirements prescribed by the College. She participated in the Competency Assessment and Enhancement for Nurses (“CAEN”).

The results of the CAEN (dated September 3, 2014) indicated that the Applicant did not meet entry level competencies for Registered Nurses in the following areas:

- Physical Assessment
- Clinical Experience
- Critical Thinking
- Prioritization of Care
- Professional Responsibilities

The CAEN recommended the following coursework to address these gaps in entry level competencies:

- Health and Physical Assessment Course
- Consolidated Clinical Course
Nursing in Canada
Professional Communication and Critical Thinking

[13] The Registration Committee adopted the CAEN’s recommendations for coursework and confirmed to the Applicant, in a decision dated November 18, 2014 that she would be eligible for registration upon completing the coursework identified by the CAEN.

[14] Prior to completing all of the required coursework, the Applicant applied to the Registration Committee requesting a practising license.

[15] On March 25, 2015, after reviewing the materials submitted in support of the Applicant’s request for practising registration, the Registration Committee affirmed its earlier decision of November 18, 2014 requiring that the Applicant complete the requisite coursework. This decision was communicated to the Applicant in correspondence dated March 30, 2015 (the “March Decision”). In the March Decision, the Registration Committee also stipulated that the Applicant would be required to provide a note from her treating psychiatrist confirming her current fitness to practice.

[16] On May 11, 2015 the Applicant filed an application for review with the Review Board of the March Decision. She was advised by the Review Board that she would need to fill out an Extension of Time Application.

[17] On May 12, 2015 the Applicant submitted her Extension of Time Application. The College did not oppose the application. The application for an extension of time to file the application for review was allowed by the Review Board.

[18] On August 4, 2015 the Registration Committee issued a subsequent decision which was a reconsideration of the March Decision.

[19] In its August 4th decision, the Registration Committee noted, among other things, that while the Applicant had completed the majority of the required coursework, she had not completed the Consolidated Clinical Course nor had she provided a note from her treating psychiatrist as required by its earlier decision. The Registration Committee then proceeded to summarize the submissions, communications and correspondence between the Applicant and the College as well as the Applicant’s LinkedIn profile. The Registration Committee also expressed concerns including the following:

The Applicant’s contradiction in the number of hours of practice: In her June 2015 correspondence with the College, the Applicant stated that: “For my requirements, I demonstrate the continuing competence requirement of 1125 registered nursing practice hours within the past five years.” However, the College’s records indicate that the Applicant had not practiced as a Registered Nurse in the past five years (meaning that she could not have met the 1125 hours requirement for continuing competence unless she had been practising in another jurisdiction as a Registered Nurse). In addition, in her application for reinstatement in the spring of 2014, the Applicant claimed that she had no nursing hours in the last five years.
The Applicant’s lack of understanding of the role of the regulator and the importance of appropriate boundaries between the personal and professional in the practice of nursing: In support of this concern, the Registration Committee cited the following statements that were included in various materials authored by the Applicant:

(a) **April 8, 2015**: “I would best describe myself as an athletic, funny, creative character who may not be that connoisseur on the cover of a magazine, but I really enjoy trying to be that character whenever my savings and vacation time matches. When they don’t match then vacation on credit is necessary, especially during times when the weather here becomes cold and wet.”

(b) **November 17, 2014 and April 8, 2015**: “Laughter is the value on the pressure cooker of life. You either laugh at stuff or you end up with your brains on your beans on the ceiling- Anonymous.”

(c) **April 8, 2015**: “I’ve acquired many insights about trust, love and the timing in life because my last relationship has ended. However, I am confident that I could maintain a long term relationship when he makes me “giddy” and calm, my soul mate. At this time, the many romance novels that I have read have certainly filled in a few gaps. However, finding a husband is not-so-good for me right now because I feel that my spirits, enthusiasm and financial morale are all dampen until I regain my employment routine. When this happens, I’m confident that my soul mate will enjoy my cooking – hopefully – more so than my take-outs.”

(d) **November 14, 2014**: “Most of my life, I don’t take things seriously, and I generally have a good sense of humor except when it involves the CRNBC’s RN Committee.”

(e) **November 17, 2014**: Stated in reference to stressors while working as a nurse: “I was drinking a few cups of coffee per day because I was tired; and on my days off, I had coffee withdrawal if I hadn’t continued my coffee consumption. However, many people in allied health drank coffee and many people that I personally know drank more than two cups per day to keep alert.”

(f) **November 5, 2014**: As part of her appeal to Kwantlen in relation to her CAEN results: “I changed out of my dark blue navy uniform with matching runners into my professional below-the-knee black skirt, brown rayon long sleeve turtle neck, and black loafers to enter the side room for the written examination.”

**Self-disclosed health issues**: In this respect, the Registration Committee specifically concluded as follows:

…the Registration Committee was concerned in light of the applicant’s self-disclosed health issues, such as her self-disclosure of depression noted on her application to reinstate dated March 4, 2014, portions of the applicant’s materials, including some of
The statements noted above, may indicate a health issue about which the Registration Committee requires additional information vis-à-vis the applicant’s fitness to practice.

**The Applicant holding herself out in a way that would suggest that she is a Registered Nurse:** In this respect, the Registration Committee specifically concluded as follows:

the Registration Committee is concerned that the applicant has continued to call herself an RN despite Ms. C’s request dated June 11, 2015 [wherein the Applicant was advised that she could not refer to herself as an RN]. As such, the Registration Committee believes that this continued pattern on the part of the applicant to refer to herself as RN has an impact on the Registration Committee's faith in the applicant's understanding and ability to adhere to the requirements of self-regulation.

After reviewing its concerns as identified in part above, the Registration Committee concluded as follows:

… the applicant does not possess the knowledge, skills and abilities at this time to be reinstated as a registered nurse as per CRNBC Bylaw 4.07(2)(a)(ii) and that this requirement will be met upon CRNBC receiving confirmation that the applicant has successfully completed a Consolidated Clinical Course.

And

… the applicant does not meet the fitness to practice and good character requirement for registration at this time as per policy RID RC1-04 and section 4.03(1)(a) of the CRNBC Bylaws at this time. The Registration Committee requests that the applicant undergo a Comprehensive Independent Medical Assessment from a qualified Psychiatrist at the applicant's expense. The Committee further requests that the applicant provide consent for CRNBC to provide specific questions to the Psychiatrist in advance of this assessment and that the applicant provide consent for CRNBC to provide a copy of her record with CRNBC to the Psychiatrist. Upon receipt of the independent medical assessment, the Registration Committee will reconsider the applicant’s application for registration.

On August 11, 2015 the Applicant informed the Review Board that she wanted to proceed with her request for a review. Accordingly, the Application for Review of the Registration Committee’s March 30, 2015 decision has been expanded to include the Registration Committee’s decision of August 4, 2015.

In her Statement of Points dated October 23, 2015 the Applicant provides significant details about the hardships she has endured, and continues to endure, in her life. She also provides extensive information about her employment at Hospital A and the circumstances surrounding her decision to take a leave from the practice of nursing where she alleges that she “endured years of unnecessary bigotry, harassment, intimidation, defamation and discrimination…” After providing this background the Applicant takes the following position:
The extraordinary circumstances leading up to this Statement of Points, submissions in Form 10, and previous submissions on record; I am at no fault, my former employer … [Hospital A] violated the law.

I believe that the registration committee’s decision had not considered how hard I tried to mitigate my job loss and extensive damages even though I met both conditions for individuals seeking registration as a member of the college, and for certified non-registrant as discussed above.

In the following, I object to the registration committee’s decision as it was namely a) made arbitrarily or in bad faith, and b) was made for an improper purpose.

I believe that the registration committee’s decision had been biased by [Hospital A] ICU’s Manager Ms. H.T. and staff nurse Ms. H.B.

I believe that the registration committee’s decision had not considered my hours of information technology training and nursing, of working with elementary school students, of working in the cafeteria at the old non-profit building, of working with the poor at the public library, of developing a research and planning consulting service – summarized in my two-page resume in Form 10.

I believe that the registration committee’s decision had not considered my hours of current trends and the nursing process – work carried forward from the health food store, from 411 Seniors Centre Society, and from the Vancouver Community Network.

I believe that the registration committee’s decision had not considered my hours of health/wellness research contents and nursing process – work in-progress – known as the Street Messaging System (SMS). Please see Form 10, my portfolio ... about the kinds of content I publish on SMS. SMS is a feasible and valuable text messaging system to alert the public via electronic mail or mobile phone on topics such as shelter, food, health/wellness, and job/training. Information technology and nursing using SMS is a feasible tool for the better good of society. Public alerts, climate changes, and major disasters could feasibly be conveyed on SMS.

I have the enthusiasm and capacities to continue my nursing career – in outpatient clinic work, administration, education or research – including patient teaching, sales and marketing. At my own initiative, I research, designed, prepared, and compiled my portfolio… as more evidence for the record to justify my nursing competencies to educate those who are interested. I practice safely, compassionately, competently, and ethically to the best of my abilities.

Please consider my good character and fitness to practice. I felt that the registration committee’s decision had not fully considered my hours of administration, education and research. I ask the Health Professions Review Board (HPRB) to direct my conversion from “pending assessment” to “practicing” Registered Nurse status in British Columbia based on: prior evidence already indexed, extraordinary reasons at no-fault of my own, new compilation of evidence attached in Form 10, and this Statement of Points.

The Applicant also submitted evidence that did not form part of the Record but which she contends is reasonably required by the Review Board for a full and fair
disclosure of all matters related to the issues under review. The evidence spans a wide variety of topics including, without limitation, the Applicant’s work history since leaving Hospital A, efforts surrounding securing employment, information about her personal circumstances including her financial situation, information about a motor vehicle accident, correspondence with the College, explanations about the use of the RN title, letters of reference, a revised resume and a personal portfolio.

III DISCUSSION AND ANALYSIS

Jurisdiction of the Review Board

[24] The jurisdiction of the Review Board under section 50.54 of the Act is to conduct a review of the decision on the Record. The Review Board may hear evidence that is not part of the Record as reasonably required for a full and fair disclosure of all matters relevant to the issues under review.

[25] The relief that the Review Board may grant is set forth in section 50.54(9) of the Act which states:

(9) On completion of its review under this section, the review board may make an order

(a) confirming the registration decision,
(b) directing the registration committee to make a decision that could have been made by the registration committee in the matter, or
(c) sending the matter back to the registration committee for reconsideration with directions.

[26] The request for relief triggers section 50.54(10) of the Act which states:

(10) The review board may make an order under subsection (9) directing the registration committee to grant registration with or without limits or conditions, or certification, as the case may be, only if the review board is satisfied that

(a) all of the following apply:

(i) the registration committee failed to act fairly in considering the application for registration or certification;
(ii) the registration decision

A. was made arbitrarily or in bad faith,
B. was made for an improper purpose,
C. was based entirely or predominantly on irrelevant factors, or
D. failed to take requirements under this Act into account;

(iii) the conditions described in subsection (11) (a) or (b) are met, or
(b) the person is a person to whom the registration committee is obliged under the *Labour Mobility Act* to grant registration or certification.

[27] Section 50.54(11) of the Act states:

(11) The following conditions apply for the purposes of subsection (10) (a) (iii):

(a) in the case of a person applying for registration as a member of the college,

(i) the person's knowledge, skills and abilities must be substantially equivalent to the standards of academic or technical achievement and the competencies or other qualifications required for registration in a class of registrants, and

(ii) the applicant must meet any other conditions or requirements for registration in the class of registrants;

(b) in the case of a person applying for certification as a certified non-registrant,

(i) the applicant's knowledge, skills and abilities must be substantially equivalent to the training or educational requirements for certification in a class of certified non-registrants, and

(ii) the applicant must meet any other conditions or other requirements for certification in the class of certified non-registrants.

**Jurisdiction of the Registration Committee**

[28] The Registration Committee’s authority in relation to an application for reinstatement of an applicant who has ceased to be registered as a registered nurse registrant or licensed graduate nurse registrant is set forth in 4.07(2)(a)(ii) of the College of Registered Nurses of British Columbia’s Bylaws (the “Bylaws”) which provides as follows:

A former registered nurse registrant or former licensed graduate nurse registrant ... may... be reinstated by the registration committee as a registered nurse registrant or licensed graduate nurse registrant, as the case may be, if

(a) The applicant

(ii) has successfully completed any examinations or upgrading of knowledge, skills or abilities that the registration committee considers necessary for the applicant to be reinstated as a registered nurse registrant or licensed graduate nurse registrant, and provides any other evidence required by the registration committee to demonstrate that the applicant has maintained knowledge, skills and abilities that are substantially equivalent to the standards of academic or technical achievement and the competencies or other qualifications established
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for initial applicants for registered nurse registration under section 4.04(1) (a) and (c),…

[29] Bylaw 4.04(1)(a) and (c) provide as follows:

… the requirements for registered nurse registration are

(a) successful completion of a registered nurse education program recognized by the board for the purpose of registration and specified in Schedule C,…

(c) evidence satisfactory to the registration committee that the applicant is competent to practise as a registered nurse registrant,

[30] The Bylaws also require that the Registration Committee be satisfied that an applicant meet a fitness to practice and good character requirement (Bylaw 4.03(1)(a)) as follows:

An applicant for registration in any class of registrants must deliver the following to the registrar:

(a) evidence satisfactory to the registration committee that the applicant is of good character and fit to engage in the practice of nursing;

[31] The requirements for reinstatement are also clearly explained in Policy RID RC1-04. It is to be noted that in relation to the continuing competence requirement of 1125 registered nursing practice hours, which the Applicant purports to have, Policy RID RC1-04 (the “Policy”) provides as follows:

Hours of professional development/education (e.g. workshops, conferences or courses) may count towards the 1125 hour option to meet the basic hours requirement outlined in section 5.05 of the bylaws if:

- The renewing/reinstating registrant had practising RN registration at the time;
- The renewing/reinstating registrant was in a position that was the practice of registered nursing at the time; and
- The professional development/education was undertaken as part of his/her position as an RN.

Factual Analysis

[32] In my view the Applicant has failed to establish that the Registration Committee acted unfairly. The Registration Committee provided the Applicant with clear options for reinstatement along with sufficient information on how she could achieve the requirements.

[33] The Applicant decided she would proceed with the option of participating in the CAEN. However, the results of the CAEN indicated that the Applicant did not meet entry level competencies for Registered Nurses in certain areas. As a result the CAEN
recommended that the Applicant be required to complete the following coursework to address these gaps in entry level competencies:

- Health and Physical Assessment Course
- Professional Communication and Critical Thinking
- Consolidated Clinical Course
- Nursing in Canada

[34] The Applicant completed three of the four courses. However despite making efforts to do so, she has been unable to complete the Consolidated Clinical Course. Not having completed all of the required coursework, the Applicant has taken the position that the assessment through the CAEN was flawed.

[35] The Applicant also suggests, among other things, that her activities during the time she was not registered should be taken into account by the Registration Committee for the purposes of allowing her reinstatement application. However, while the Applicant may have undertaken professional education and development after she left Hospital A, as described in the Policy, those hours would not count towards the continuing competence requirement of 1125 registered nursing practice hours because she was not a registered and practising RN.

[36] Also while the Applicant continues to see various medical professionals for psychiatric care, she has not provided the form of psychiatric assessment required by the Registration Committee.

[37] While I am sympathetic to the Applicant’s position, in my view, the Applicant has failed to establish that the Registration Committee acted unfairly by prescribing preconditions prior to her reinstatement. Based upon my review of the Record, I cannot conclude that the registration decision was made “arbitrarily or in bad faith, or was made for an improper purpose, was based entirely or predominantly on irrelevant factors, or failed to take into account the requirements under the Act.” In my view, the preconditions that have been imposed on the Applicant are reasonable and are within the jurisdiction and reasonable discretion of the Registration Committee.

[38] I note that the Registration Committee has looked at the Applicant’s circumstances more than once and has remained consistent with the requirements related to additional training. I also note that the Registration Committee has provided a reasonable basis for requiring the Applicant to undergo a psychiatric assessment. Specifically they have stated:

... the Registration Committee was concerned that in light of the applicant’s self-disclosed health issues, such as her self-disclosure of depression noted on her application to reinstate dated March 4, 2014, portions of the applicant’s materials ... may indicate an [sic] health issue about which the Registration Committee requires additional information vis-à-vis the applicant’s fitness to practice.
Based upon my review of the Record, I cannot conclude that the Registration Committee’s assessment is unfounded.

I should add finally that I do not consider the new evidence sought to be admitted by the Applicant to have been necessary for the full and fair hearing of this matter and decline to admit same. If I had admitted the new evidence, it would not have changed my decision.

IV DECISION

My review of the Record causes me to conclude that the Applicant has not demonstrated that the conduct of the Registration Committee meets the criteria set forth in section 50.54(10) of the Act and accordingly pursuant to section 50.54(9)(a) of the Act I confirm the registration decision of the College.

In making this decision I have considered all of the information and submissions before me, whether or not they are specifically referred to in these reasons.

“Karima Bawa”

Karima Bawa, Panel Chair
Health Professions Review Board

February 5, 2016