DECISION NO. 2018-HPA-086(a)

Date: June 20, 2019

In the matter of an application (the “Application”) for review under section 50.54 of the Health Professions Act, R.S.B.C. 1996, c. 183, (the “Act”) of a registration decision made by registration committee

BETWEEN: The Applicant

AND: College of Licensed Practical Nurses of British Columbia

BEFORE: Brenda L. Edwards, Panel Chair

DATE: Conducted by way of written submissions closing November 16, 2018

APPEARING: For the Applicant: Self-represented

For the College: Lisa Fong, Legal Counsel

DECISION ON AN APPLICATION FOR REVIEW

I  INTRODUCTION AND PROCEDURAL BACKGROUND

[1] The Applicant has filed an Application for Review of a decision made by the Registration Committee of the College on May 25, 2018 (the “2018 Decision”). In that decision, the Registration Committee determined that it was not prepared to grant the Applicant registration as a Licensed Practical Nurse as it was not satisfied that he met all the conditions and requirements of registration, namely education and competence to practice. Further, the Registration Committee determined that it was not satisfied, based on the evidence submitted by the Applicant, that his knowledge, skills and abilities were substantially equivalent to a graduate of a College-recognized practical nursing program.

[2] On July 23, 2018, counsel for the College provided the Review Board with the record of the Applicant’s history of application for registration and licensure with the College (the “Record”).

1 For the purposes of this decision, the Registration Committee of the College will be referenced as the Registration Committee or, simply, the Committee.
On August 23, 2018, the Chair of the Review Board wrote to the Parties and directed this matter to Stage 1 of the Review Board’s hearing process and explained that, at this stage, the Applicant is asked to submit a written Statement of Points outlining all his submissions and identifying any additional documents he wishes the Review Board to consider on the review. The College is not asked for submissions at this stage.

On September 20, 2018, the Applicant filed his Statement of Points.

The Chair originally assigned the Stage 1 hearing of this matter to another member of the Review Board (the “previous Panel Chair”) who determined that he could not conclude the matter at Stage 1 and on October 10, 2018, he wrote the Parties and directed that the matter proceed to a Stage 2 hearing so that he could receive submissions from the College and reply submissions from the Applicant (the “Stage 2 letter”).

The College provided its submissions on November 1, 2018.

Although afforded the opportunity, the Applicant did not file any submissions in response to the College’s submissions.

Sadly, the previous Panel Chair died suddenly, and before he could complete his review of the matter. On May 15, 2019, after canvassing the Parties and obtaining their agreement, the Chair of the Review Board reassigned this matter to me to review based on the Application for Review, the Record, the Stage 2 letter and the Parties’ submissions. The Chair advised the Parties that I would not be bound by the directions given, nor the questions posed by, the previous Panel Chair.

My task, on behalf of the Review Board is to review the 2018 Decision in the context of the Record and the submissions from the Parties.

II THE APPLICANT’S HISTORY OF APPLICATION FOR REGISTRATION AND LICENSURE

The Applicant trained as a “registered nurse” in the Philippines. He last practiced there in 2011. In 2014, he applied to the College to be registered as a licensed practical nurse.

In March 2014, the Applicant submitted an Assessment Application for Registration with the College. Supporting documentation such as the results of a criminal record check, verification of registration in other jurisdictions and results of the Applicant’s English language testing (IELTS) and international credentials evaluation (ICES) followed over the course of several weeks. On April 7, 2014, staff in the Registration and Assessment department of the College emailed the Applicant advising him that the College had received the results of his ICES and IELTS but that he had failed to meet the minimum score required in the writing component of the English language test. The Applicant failed to achieve the minimum score in the writing
component of the English language test on his second and third attempts in June 2014 and September 2014, respectively. In September 2015 the Applicant provided proof that he had achieved the necessary results on the IELTS. This completed his application and his assessment proceeded.

[12] On October 30, 2015, College staff notified the Applicant of the College’s requirement that he have identification documents notarized and provide a statutory declaration. The Applicant provided the requested documents on November 2, 2015.

[13] On July 11, 2016, the Assessments Coordinator at the College wrote the Applicant acknowledging his application for practicing registration with the College and confirming receipt of “all of the required documents to complete an initial assessment of your ICES reports, nursing education, nursing work experience, registration history, character, fitness to practise and English Language proficiency requirements for registration.” The Assessment Coordinator then stated:

From the documentation submitted, (the College) was able to determine that your nursing education was not substantially equivalent to that of a (College)-recognized Practical Nursing Program. As a result, (the College) could not determine that you possess a combination of knowledge, skills, and abilities expected of an entry-level practitioner in BC with the information collected to date with your application.

The Registration Committee will require more information in order to determine whether your nursing experience and current competence to practise will satisfy the Committee that you meet the requirements for registration.

In order to assist with this determination, it will be necessary for you to complete an independent competency assessment. This independent competency assessment will validate your competencies and indicate if you are able to practise competently as a licensed practical nurse (LPN) in BC. The independent competency assessment result, when combined with your submitted documentation to date, will be delivered to the Registration Committee in order to best recommend either eligibility to write the Canadian Practical Nurses Registration Examination (CPNRE), or further education that must be completed before you write the CPNRE.²

The letter then identified three College-approved assessors and instructed the Applicant to contact any of them to make arrangements for an assessment and for a copy of the report to be sent directly to the College. The letter concluded by advising the Applicant that his “entire file, including your assessment report” would be delivered to the Registration Committee for “final decision” as to whether he met the requirements for registration as an LPN in BC.

[14] On January 4, 2017, College staff wrote the Applicant confirming that he had selected the Nursing Community Assessment Service (“NCAS”) as his competency assessor, but that assessor had not previously been available to accept referrals. The Applicant was instructed that if the College did not receive a signed consent to be

² CPNRE is a registered trademark.
assessed by April 30, 2017, his application for registration would expire and he would need to start the process afresh. The Applicant provided the signed consent form on January 11, 2017.

[15] On February 5, 2018, NCAS sent its Performance Report for the Applicant to the College. On April 5, 2018, the Assessments Coordinator at the College advised the Applicant that his “reports” would be put before the Registration Committee at its May 2018 meeting.

[16] On May 2, 2018, the Registration Committee, comprised of three LPNs and two public representatives met and passed the following motion:

Motion #21 - The Registration Committee determined that they are not satisfied by the evidence that the applicant meets the requirements for registration. In order to meet the requirements, the applicant must successfully complete a recognized practical nursing education program and the CPNRE.

[17] On May 25, 2018, the Deputy Registrar, Regulatory Services Department of the College advised the Applicant of the Registration Committee’s decision.

III MATERIAL CONSIDERED IN THE REVIEW

[18] In reaching my decision, I considered all the information that was before me whether specifically referenced in this decision or not, including:

(a) the Applicant’s June 15, 2018, Application for Review of a Registration Decision (received by the Review Board on June 18, 2018);
(b) the 175-page Record³; and
(c) submissions from the Applicant and the College.

[19] I am mindful of the legislative regime that governed the College in 2014 when considering applications for registration as a licensed practical nurse.

IV LEGISLATIVE FRAMEWORK

Statutory Provisions Governing Registration of Licensed Practical Nurses

[20] Section 16(1) of the Act provides that health professions colleges have a duty to serve and protect the public and to exercise their authority under the Act in the public interest.

³ I note that the College provided 311 pages of documents which it referred to as the Registration Record for the Applicant. The documents found at pages 190-311 are reference materials including the College’s Bylaws, Part 4, the College’s Policies RID RC1-46 re: Provisional Registration and RID RC1-12 re: Assessment of Canadian Applicants Including B.C. Graduates, the Labour Mobility Act, Article 706 of the Agreement on Internal Trade and Chapter 7 of the Canadian Free Trade Agreement and the College’s Competencies in the Context of Entry Level Registered Nurse Practice in British Columbia.
Section 19(1)(i) of the Act states:

19 (1) A board may make bylaws, consistent with the duties and objects of a college under section 16, that it considers necessary or advisable, including bylaws to do the following:

... (i) establish a class or classes of registrants, including, if authorized in accordance with section 12(2)(g.3), a class of restricted or provisional registrants for the purposes of section 20 (4.2) or (4.3), respectively, and specify if members of a class are eligible to vote in an election referred to in section 17 (3) (a) or to be elected under section 17 (3) (a);

Section 19(1) of the Act also includes several provisions allowing the College to make bylaws concerning conditions or requirements for registration:

(m) establish conditions or requirements for the registration of a person as a member of the college, including the following:
   (i) standards of academic or technical achievement;
   (ii) competencies or other qualifications;
   (iii) requirements for providing evidence of good character;

(m.1) specify academic or technical programs that are recognized by the college as meeting a standard established under paragraph (m) (i);

(m.2) provide for the examinations that may be required, used or relied on by the registration committee in satisfying itself under section 20 that a person meets the conditions or requirements for registration as a member of the college;

(m.3) establish conditions or requirements for eligibility to take examinations referred to in paragraph (m.2) and procedures respecting the conduct of examinations, and authorize a committee established under paragraph (t) or the registrar to establish additional examination procedures consistent with the bylaws;

(m.4) confer discretion on the registration committee, in satisfying itself under section 20 that a person meets the conditions or requirements for registration as a member of the college, to consider whether the person’s knowledge, skills and abilities are substantially equivalent to the standards of academic or technical achievement and the competencies or other qualifications established under paragraph (m), and to grant registration on that basis.

Section 20(1) of the Act provides that the Registration Committee is responsible for granting registration of a person as a member of the College.

Section 20(2) requires the registration committee to grant registration to every person who, in accordance with the bylaws,

(a) applies to the College for registration,
(b) satisfies the registration committee that he or she meets the conditions or requirements of registration in a class of registrants, and

(c) pays the required fees, if any.

The College Bylaws

[25] In 2014, the College’s bylaw 48 set out the requirements for registration:

48(1) For the purposes of section 20(2) of the Act, the requirements for licensed practical nurse registration are

(a) graduation from a practical nursing education program recognized by the Board for the purpose of registration and specified in Schedule B,

(b) successful completion of the examinations specified by the registration committee, not more than three years before the date of application under this section,

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

(d) evidence satisfactory to the registration committee that the applicant is competent to practise as a licensed practical nurse registrant,

(e) evidence satisfactory to the registration committee of the applicant’s English language proficiency, and

(f) receipt by the registrar of

(i) a completed application for licensed practical nurse registration in Form 1 or another form considered acceptable by the registration committee,

(ii) any applicable application and registration fees specified in Schedule D,

(iii) any outstanding fine, debt or levy owed to the College,

(iv) an original transcript, or other evidence satisfactory to the registration committee, reflecting the applicant’s degree, diploma or certificate, and evidence satisfactory to the registration committee that the applicant is the person named therein,

(v) a statutory declaration in Form 2,

(vi) a completed authorization for a criminal record check or, if permitted by the registration committee, a criminal record check verification in the form required by the Criminal Records Review Act, accompanied by any required payment, and

(vii) a certificate, letter or other evidence in a form satisfactory to the registration committee, dated not more than 60 days before the date of application under this section, from each applicable regulatory or
licensing authority in every jurisdiction where the applicant is or was, at any time, registered or licensed for the practice of practical nursing or another health profession…

(3) Despite subsection (1), the registration committee has discretion, in satisfying itself under section 20 of the Act, that an applicant meets the conditions and requirements for registration under this section, to

(a) consider whether an applicant’s knowledge, skills and abilities are substantially equivalent to the standard of academic or technical achievement established in subsection (1)(a), and

(b) grant registration under this section on that basis, if the applicant also meets the conditions and requirements established in subsections (1)(b) to (f).

(underlining added)

Statutory Provisions Governing the Review Board

[26] Section 50.54 of the Act allows an applicant in receipt of a registration decision, the right to request a review by the Review Board. "Registration decision" is defined in s.50.5 of the Act as follows:

"registration decision" means a decision made by a registration committee

(a) to refuse to grant an application for registration as a member of a college under section 20, except for a refusal under section 20 (2.1) or (3),

(b) to grant registration in a class of registrants under section 20 with limits or conditions on the practice of the designated health profession by the registrant, except limits or conditions imposed under section 20 (2.1) or (3), or

(c) if a college has established one or more classes of certified non-registrants, to refuse an application for certification as a certified non-registrant.

[27] The review is a review on the Record, but the Review Board may hear evidence that is not part of the Record if that evidence is reasonably required by the Review Board for a full and fair disclosure of all matters related to the issues under review.

[28] The Review Board is given the following remedial authority on a registration review:

50.54(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.

[29] The Review Board may make an order directing the Registration Committee to grant registration to an applicant in certain circumstances:

50.54 (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 on 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 registration committee is obliged under the Labour Mobility Act to grant registration or certification.

(11) The following conditions apply for the purposes of subsection (1)(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…

V DISCUSSION AND ANALYSIS

The Decision Letter

[30] The Registration Committee’s decision was conveyed to the Applicant by letter dated May 25, 2018 from the Deputy Registrar. The five-page letter is structured with headings and written in language that is easily understood. The Decision Letter begins by indicating that the Registration Committee met on May 2, 2018 to consider the
Applicant’s application for registration and supporting materials. After setting out the legislation governing such matters, the Decision Letter identifies the materials that were considered by the Registration Committee as: the completed application form; criminal record check results; statutory declaration; ICES report; employment verification; IELTS results; and verification of registration (Philippines and New Mexico).

The Decision Letter then sets out the Registration Committee’s Decision:

**Decision & Reasons**

After a review of all evidence submitted related to your application for registration with (the College), the Registration Committee is not prepared to grant LPN registration pursuant to section 20(2)(b), as they were not satisfied that you met all of the conditions and requirements for registration, namely education and competence to practice. The Committee was not satisfied by the evidence presented that your knowledge, skill and abilities are substantially equivalent to that of a graduate of a (College)-recognized Practical Nursing program.

The Decision Letter then sets out its reasons related to the relevant registration requirements and the specific evidence considered.

**Education (College Bylaw – 48(1)(a)/(3)(a)**

The International Credential Evaluation Service (ICES) report includes an evaluation of your credentials, Bachelor of Science in Nursing, from (a college), (in a city), Philippines.

You completed your nursing program from (the college in the Philippines) in 2005. The ICES report indicates that the program did not include sufficient hours in education (theory) in Surgical, Gerontology, Community and Mental Health Nursing. In addition, the report indicates that you did not complete sufficient hours in education (Clinical) in Gerontology Nursing. The report indicates that overall your credential, when evaluated, was not fully comparable to a post-secondary level of study in British Columbia.

As a result, the Committee was unable to determine that the program was substantially equivalent to a (College)-recognized Practical Nursing (PN) program.

**Competence to practise as an LPN (College Bylaws- 48(3)(a)/48 (1)(d))**

While there was insufficient evidence to satisfy the Registration Committee that your previous education is substantially equivalent to a College-recognized program, the Committee then considered your work experience. Specifically, they considered whether your nursing role as a Clinical Instructor, in Education, was sufficient to satisfy the Committee that your experience can be considered to have fulfilled the gaps identified in your education program.

Documentation received related to your nursing experience with (a university in the Philippines) indicated that you practiced in nursing though the specific clinical areas and ages of clients in which you practised was unverified. In addition, it was reported that you last practised as a nurse in 2011. Given the variations in scope of practice and role and responsibilities in your previous nursing practice, and the length of time you have
been out of practice, the Committee could not be satisfied by the evidence that your
nursing experience would fulfill the gaps identified in your education.

[33] The Decision Letter then notes that, “in order to provide the Committee with
additional evidence of your current competence to practice,” the College referred the
Applicant for an independent assessment. The Record reveals that the Applicant
elected to be assessed by the NCAS.

The Committee reviewed the results of the NCAS assessment, which identified how you
performed in the required competency areas for safe, competent, and ethical practice.
All of your performance in the required competency areas fell within the “emergent”
category with the exception of one category. Specifically, in the areas of Ethical and
Legal Responsibility, Professional Behaviour and Therapeutic Communication, your
performance fell in the low to mid-level of “emergent,” indicating a high level of
inconsistency in your application of knowledge and skills required in practice. With
respect to competencies required for performance in the critical areas of Clinical
Decision Making/Critical Inquiry, Collaboration, Documentation and Practice (Nursing
Process), you performed at the lower end of the “emergent” category, indicating a level
of inconsistency in your proficiently (sic) apply these competencies in practice that
provided the Committee with evidence that you are not prepared to provide safe,
competent and ethical care expected of an LPN in BC. Your performance of
competencies expected in the Teaching and Learning category fell in the
“undemonstrated” level indicating an insufficient mastery of these competencies
expected for practice.

When your performance in the ‘undemonstrated’ category is taken into consideration
with your performance in the sets of competencies related to critical areas of
competence, Clinical Decision Making/Critical Inquiry, Collaboration, Documentation,
and Practice (Nursing Process), the Committee expressed concern that without more
substantial educational upgrading, your competence to practice would not be
satisfactorily remediated for safe entrance to LPN practice.

Ultimately, the report identified differences in practice in comparison to an entry-level
practitioner giving rise to concerns for the Committee about safety of the public should
you be authorized to practice as an LPN in B.C. (underlining added)

[34] The Decision Letter concludes that:

The Registration Committee was not satisfied, on the evidence, that your education and
current competence to practice are substantially equivalent to the knowledge, skills and
abilities of a graduate of a (College)-recognized program. As a result, the Committee is
not prepared to grant you practicing registration at this time.

[35] Finally, the Decision Letter indicates that should the Applicant wish to reapply he
will need to successfully complete a College-recognized Practical Nursing Program and
the CPNRE.

[36] The Decision Letter ends with a caution to the Applicant not to use any of the
listed titles and advises him of his right to seek a review of the decision by the Review
Board.
The Applicant’s submission

[37] The Applicant has asked the Review Board to review the Registration Committee’s Decision. As I understand his reason for requesting a review, he believes the College’s decision to decline to grant him registration was “unfair.”

[38] He submits that the decision was unfair because he:

- trained as a registered nurse in the Philippines and worked for two years as a “clinical instructor;”
- his transcript demonstrates that he has 1,440 hours of theory and 2,274 clinical hours for a total of 3,714 hours which exceeds the hours needed to finish the LPN program in BC at an urban community college (the program consists of 1,650 hours with 235 hours of Practicum);
- started the application process under the “old process” and the NCAS examination for international students only became a requirement under the “new process” and ought not to have been applied to him;
- completed the NCAS assessment and scored “emergent” on 7 out of 8 categories; and
- the decision to “take the whole 2 year program” when the College could have considered his credentials and required him to complete “a short refresher course or certain hours of clinicals” amounts to an “insult to (his) education and work experience.”

[39] In his Application for Review, the Applicant stated under the heading “Relief Being Sought:”

I am hoping that my RN education and work experience will be accepted as equivalent to an LPN program. Hence, I will be allowed to challenge the Canadian Practical Nursing Registration Examination (CPNRE).

[40] I understand the Applicant to be asking the Review Board to direct the College to register him and authorize him to challenge the CPNRE.

The College’s submissions

[41] In the Statement of Points filed on behalf of the College, legal counsel submitted that the Registration Committee’s decision to refuse to grant the Applicant registration based on both “substantial equivalence” and “competence” grounds was justified and reasonable and the Registration Committee’s decision ought to be confirmed.

[42] The College submits that, in 2014, the bylaws set registration requirements which included both formal training sufficient to provide an applicant with the knowledge, skills and abilities and current competence to practice as an LPN.
The 2014 bylaws required graduation from a Board-recognized educational program (s. 48(1)(a)). The bylaws provided the Registration Committee with discretion to consider whether an applicant has knowledge, skills and abilities that are substantially equivalent to those provided in a Board-recognized program (s.48(3)). The 2014 bylaws also required that an applicant satisfy the Registration Committee that he is competent to practise as an LPN.

The College submits that the Registration Committee expressly set out in its Decision Letter why it was not satisfied that the Applicant had met the registration requirements relating to both education and competency.

The College further submits that the Registration Committee is entitled to deference when interpreting the provisions of its home statute and subordinate legislation such as its bylaws: *College of Dental Surgeons of British Columbia v. Health Professions Review Board*, 2014 BCSC 1841 at paras.[128] and [130-132].

The College also submits that the Registration Committee properly considered that the Applicant:

- did not achieve satisfactory results in his English-language proficiency until September 2015;
- achieved borderline passing marks in his registered nursing program in 2005 (the first two years of which equated to the final two years of high school in British Columbia and the final two years of which are not fully comparable to a College-approved LPN program)
- failed to practise nursing from 2005 until 2008;
- had duties as a “Clinical instructor” from 2008 to 2011 which did not address the gaps in his education;
- ceased nursing practise in 2011; and

The College further submits that the substantive “competency” requirement did not change between when the Applicant applied for registration in 2014 and when the Registration Committee decided his application in 2018, only the process by which the Registration Committee might decide to require that the Applicant demonstrate his competency.

Further, the Applicant chose to demonstrate his competency through the NCAS assessment process when offered three assessment options. He failed to “consistently demonstrate” any of the competence categories applicable to an entry-level LPN registrant, indicating that his competency deficiencies are widespread and systemic, rather than isolated to any particular subject area.
The Registration Committee determined that the NCAS assessment results demonstrated that the Registrant was lacking continuing competence in all relevant practice areas and the ICES report demonstrated that his education was not substantially equivalent to that of a new graduate from a College-recognized LPN program.

Standard of Review

The Review Board has previously noted that the standard of review to be applied to registration committee decisions is “reasonableness.” The Review Board has also acknowledged that the Registration Committee is entitled to deference when it is performing its gatekeeper functioning in governing its registrants and applicants for registration according to its home statute (the Health Professions Act), regulations and bylaws. In this case, I have extended deference to the Registration Committee in its interpretation of the College’s bylaws relating to the educational requirements set out in Bylaw 48(1)(a) and 48(3)(a) and the competency requirements set out in Bylaw 48(1)(d).

To be clear, deference does not mean complete submission. Rather it connotes the need for a respectful attention to the reasons offered or which could be offered in support of a decision: Dunsmuir v. New Brunswick, [2008] 1 S.C.R. 190, 2008 SCC 9 at para. [48]. I have reviewed the Registration Committee’s Decision Letter bearing the Supreme Court of Canada’s guidance in mind.

I am also mindful that the Registration Committee is entitled to exercise its discretion in considering whether the Applicant’s knowledge, skills and abilities are “substantially equivalent” to the academic or technical standard achieved by a new graduate of a College-recognized LPN program. The Registration Committee exercised its discretion under Bylaw 48(3)(a) in July 2016 when it concluded that it was not satisfied, based on the evidence then before it, that the Applicant’s knowledge, skills and abilities were “substantially equivalent” to the standard achieved by a recent College-approved LPN program graduate. The Committee afforded the Applicant the opportunity to satisfy it by completing a competency assessment and the Applicant opted to undertake the NCAS assessment.

I am satisfied that it was justifiable for the Registration Committee, in May 2018, to assess the Applicant’s knowledge, skills and abilities and his current competence by considering the ICES report findings, the Applicant’s history of attempting the English-language proficiency test, his scores in his registered nursing program in the Philippines, the scope of his work duties while employed as a clinical instructor, his absence from nursing since 2011 and the broad range of areas of weakness noted in the 2018 NCAS assessment.

I find that the Registration Committee was entitled to conclude that the ICES report identified gaps in the Applicant’s education which were not met by his work experience. I also find that the Registration Committee was entitled to require the Applicant to demonstrate his competence to the Committee’s satisfaction and to
subsequently conclude that the results of the NCAS assessment failed to demonstrate his current competence. I also find that it was reasonable for the Registration Committee, having considered all the above, to decide that the Applicant does not satisfactorily meet the College’s education and competence requirements and to decline to grant him registration under s. 20(2)(b) of the Act.

[55] In sum, the reasons provided for the Registration Committee’s refusal to grant registration as set out in the Decision Letter meet the accepted indicia of reasonableness in that they are easily understood, transparent as to the factors that the Committee considered, and justified based on the facts and the law.

[56] I am also satisfied that, by setting the requirements for eligibility for future registration as it did, the Committee did no more than reiterate the statutory requirements, i.e. “graduation from a practical nursing education program recognized by the Board for the purpose of registration.” (Bylaw s.48(1)(a)). It would have been clearer had the Decision Letter also stated that, if the Applicant were to re-apply for registration after completing further education, skills training or a further competency assessment, he would be at liberty to ask the Registration Committee to exercise its discretion under Bylaw 48(3)(a) to consider whether he has acquired knowledge, skills and abilities substantially equivalent to those that a new graduate from a College-recognized LPN program would have.

[57] In sum, the Applicant has not satisfied me that the Decision Letter was unfair or that the Committee acted in bad faith in refusing to grant the Applicant registration as an LPN or in setting the Applicant’s requirements for eligibility for future registration. To the extent that the Registration Committee found that the Applicant would need to complete a College-recognized Practical Nursing program to demonstrate meet the educational and competence requirements for registration, I defer to the Registration Committee. I am not a nurse nor am I medically trained, and I find that the Registration Committee members are better qualified than me to assess the academic and technical achievements necessary to address the shortcomings in the Applicant’s knowledge, skills and abilities.

[58] I appreciate that the Applicant disagrees with the Registration Committee and firmly believes that he is competent to practise nursing in BC. I also understand his frustration as the road to this point has been a long one for him. I understand that the College has many foreign applicants for registration that it must assess and whose applications must be considered. The time to complete that process is dependent, at least in part, on the Applicant’s readiness including demonstrating English-language proficiency and, if required as here, competency.

[59] I also appreciate that it must be difficult for the Applicant to accept that he must complete further education in order for him to practice as an LPN in British Columbia when he had previously been registered to practice as a nurse in the Philippines. That does not mean that it is unreasonable for the Registration Committee to require that of him. The Committee is tasked with ensuring that the internationally educated nurses that it registers and licenses are as competent as the new Canadian graduates of
nursing who are registered by the College. There is nothing unfair about that. It is in the public interest that only those individuals who can demonstrate such competence are registered and licensed to practise nursing.

VI CONCLUSION

[60] For the above reasons, I order that the Registration Committee’s 2018 Decision to decline to grant the Applicant registration and to require him to successfully complete a College-recognized Practical Nursing Program prior to being granted registration in the future is confirmed.

“Brenda L. Edwards”

Brenda L. Edwards, Panel Chair
Health Professions Review Board