DISCIPLINE COMMITTEE
OF THE COLLEGE OF NURSES OF ONTARIO

PANEL:	Mary MacNeil, RN	Chairperson
	Carly Gilchrist, RPN	Member
	Sylvia Douglas,	Public Member
	Aisha Jahangir, RN	Member
	Andrea Arkell,	Public Member was unable to complete the hearing and did not participate in the decision. The Panel completed the hearing and rendered its decision pursuant to Section 4.4 of the *Statutory Powers Procedure Act*.

BETWEEN:

COLLEGE OF NURSES OF ONTARIO	)	MEGAN SHORTREED, DENISE COONEY
	)	and JANET-LEE SONG for
- and -	)	College of Nurses of Ontario
	)	
SARAH A. CHOUJOUNIAN-ABULU	)	ALEXANDER BOISSONNEAU-LEHNER for
REGISTRATION NO. JD83453	)	Sarah A. Choujounian-Abulu
	)	
	)	CHRISTOPHER WIRTH
	)	Independent Legal Counsel
	)	
	)	Heard: March 10, 15, 16, 17, 20,
	)	April 10, 14, May 19, June 9, 30,
	)	August 8, September 15, 22, 25,
	)	October 18, November 1, 2023,
	)	April 9, May 16, 31, June 7,
	)	July 3, 22, August 2, 7, 16, 19
	)	September 18 & December 12, 2024

DECISION AND REASONS ON LIABILITY

This matter came on for hearing before a panel of the Discipline Committee (the "Panel") of the College of Nurses of Ontario (the "College") commencing on March 10, 2023, via videoconference.

The Allegations

The allegations against the Member as stated in the Notice of Hearing dated December 6, 2022, are as follows:

IT IS ALLEGED THAT:

1. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*, S.O. 1991, c. 32, as amended, and defined in subsection 1(1) of *Ontario Regulation 799/93*, in that while registered as a Registered Practical Nurse, you contravened a standard of practice of the profession or failed to meet the standards of practice of the profession in that you publicly made or shared statements, as set out in Appendix "A", or caused others to make such statements on your behalf, which contained information which you knew or ought to have known was inaccurate, false and/or misleading in relation to the COVID-19 pandemic and/or the public health response to the COVID-19 pandemic, and/or which encouraged non-compliance of public health orders in relation to the COVID-19 pandemic.

2. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Nursing Act, 1991,* S.O. 1991, c. 32, as amended, and defined in subsection 1(37) of *Ontario Regulation 799/93*, in that while registered as a Registered Practical Nurse, you engaged in conduct relevant to the practice of nursing that would reasonably be regarded by members of the profession as disgraceful, dishonorable or unprofessional in that you publicly made or shared statements, as set out in Appendix "A", or caused others to make such statements on your behalf, which contained information which you knew or ought to have known was inaccurate, false and/or misleading in relation to the COVID-19 pandemic and/or the public health response to the COVID-19 pandemic, and/or which encouraged non-compliance of public health orders in relation to the COVID-19 pandemic.

Appendix "A"

	Date	Platform	Conduct
1.	October 31, 2020	Public speech, YouTube	You stated "wearing a mask is unsafe for anyone, but it has even more detrimental effects on a growing child's brain development due to a decrease in oxygen intake, not only that, but facial recognition is super important for their social development, and lets not forget, that kids wearing masks makes them much harder for us to identify them, making it easier for predators to prey on them."
2.	October 26, 2020	Twitter	You posted a statement: "Very easily understand [thinking emoji] how harmless covid is compared to things like cardiovascular disease [heart emoji]"

3.	November 3, 2020	Instagram	You posted a quotation stating: "The RT-PCR test being used for COVID involves a cycling function. The more you cycle the test material in the lab, the more people test positive for COVID. If you cycle the test material 60 times, no one test positive. If you cycle it 30 times, some test positive and some don't. This means all our corrupt governments have full control of how many people test positive, depending on how many times they insist the test materials be cycled. They've picked this test purposely so they can up-regulate or down-regulate the pandemic at will…"
4.	November 3, 2020	Instagram	You posted a statement: "DID YOU KNOW? Those Blue Masks Mandated at grocery stores & airplanes are made of PTFE, a carcinogen made from synthetic fluoride. According to Cancer.Org it increases the risk of liver, testicle, pancreas, kidney and breast tumors + ulcerative colitis, thyroid disease, preeclampsia and high cholesterol. High exposure can cause influenza-like symptoms and haemorrhaging in the lungs, leading to suffocation. But no big deal…wear them everyday because it's the virtuous thing to do"
5.	November 9, 2020	Instagram	You posted a picture with the text "New COVID-19 Directives for PEEL REGION" setting out Peel Region's COVID-19 public health directives, with the following comment: "Here we go again!!! … are we just going to sit here and let this happen? DO NOT COMPLY, these mandates and fines do not stand in court. We need to toughen up and disobey."
	Date	**Platform**	**Conduct**
6.	November 23, 2020	Facebook	You posted a link to a video in relation to the COVID-19 pandemic titled, "Maker of COVID Tests Says Pandemic is Biggest Hoax Ever Perpetrated" with the following comment: "For those of you who haven't heard the recording yet…here's Dr. Hodkinson, maker of the covid test, stating that the whole pandemic is a hoax"
7.	December 6, 2020	Facebook	You posted a link to a video in relation to the COVID-19 pandemic and/or vaccine and made the following comment: "I keep getting asked about this video so here it is again…ingredients include MRC-5 which is aborted fetal tissue(vomit emoji)…please always make sure to do your own research my friends(peace emoji)"
8.	December 7, 2020	Facebook	You posted a link to a video in relation to the COVID-19 pandemic with the title "THE QUESTION ON EVERYONES MIND…"

9.	December 8, 2020	Facebook	You posted a link to a video in relation to the COVID-19 pandemic titled, "Cancel laced va$$ines" and made the following comment: "Watch Rachel Cellar RN go into details about what MRC-5 really is….they've been injecting us with this stuff for a very long time (vomit emoji)"
10.	December 28, 2020	Instagram, Facebook	You posted a statement: "Reminder: As nurses we took an oath to do no harm … promoting & advertising taking an experimental unsafe vaccine is a crime against humanity & in direct conflict with that oath."
11.	January 17, 2021	Facebook	You posted a link to a video with an interview in relation to the COVID-19 pandemic with an individual who identified themselves as "Dr. Lee Merritt"
12.	February 10, 2021	Instagram, Facebook	You posted a link to a video titled "25 questions to ask people who still believe that we are in a pandemic (smile emoji)"

Member's Plea

The Member denied the allegations set out in paragraphs 1 and 2 in the Notice of Hearing. The hearing proceeded on the basis that the College bore the onus of proving the allegations in the Notice of Hearing against the Member.

Overview

The Member registered with the College as a Registered Practical Nurse ("RPN") initially in the Temporary Class from June 2004 until October 2004, when she registered in the General Class. At the time of the allegations, the Member was employed at a long-term care facility called Norfinch Care Community - Sienna Senior Living ("Norfinch"). As a result of public statements made on the Member's social media accounts regarding the COVID-19 pandemic, the Member was terminated from her employment at Norfinch on November 2, 2020. The Member was also employed at a homecare agency called S.R.T. MedStaff, until her employment was terminated on January 14, 2021, for off-duty conduct relating to her social media posts described in this proceeding.

At the time of the allegations, the Member publicly identified herself on her Facebook account as a staff nurse. The Member had numerous social media accounts, including Twitter (now "X"), Facebook and Instagram. The Member was identified on her social media accounts as an administrator of "Nurses Against Lockdowns" and became part of a group known as "Canadian Frontline Nurses". From October 2020 to February 2021, the Member posted or made public statements on social media regarding the COVID-19 Pandemic or the Public Health response.

The issues before this Panel are:

1. Did the Member commit professional misconduct by contravening or failing to meet a standard of practice of the profession by making inaccurate, false or misleading

statements about the COVID-19 pandemic and/or the public health response to the pandemic?

2. Did the Member commit professional misconduct by contravening or failing to meet a standard of practice of the profession by making inaccurate, false or misleading statements that encouraged non-compliance with public health orders in relation to the COVID-19 pandemic?

3. Did the Member engage in conduct or perform an act, relevant to the practice of nursing, that, having regard to all the circumstances, would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional?

4. What role does the Member's freedom of thought, belief, opinion and expression under the *Charter of Rights and Freedoms* (the "*Charter*") have on the outcome of these proceedings?

The Panel found that the Member committed professional misconduct by contravening the standards of practice by making inaccurate, false or misleading statements about the COVID-19 pandemic and the public health response, and by encouraging non-compliance with public health orders. The Panel also found the Member engaged in conduct that would reasonably be regarded by members of the profession as disgraceful, dishonourable and unprofessional.

The Evidence

In addition to the Partial Agreed Statement of Facts below, the Panel heard evidence from six expert witnesses and testimony from the Member. The Panel received 56 exhibits to consider. Throughout the hearing, the Panel marked several documents for identification purposes only, and these documents did not form part of the Panel's decision in any capacity.

Partial Agreed Statement of Facts

College Counsel and the Member's Counsel advised the Panel that a partial agreement had been reached on the facts and introduced a Partial Agreed Statement of Facts, which reads, unedited and without exhibits, as follows:

THE MEMBER

1. Sarah A Choujounian-Abulu (the "Member") obtained a diploma in nursing from Humber College in 2004.

2. The Member initially registered with the College of Nurses of Ontario ("CNO") as a Registered Practical Nurse ("RPN") in the Temporary Class from June 21, 2004 until October 19, 2004. The Member registered with CNO as a RPN in the General Class on October 20, 2004. The Member's certificate of registration was suspended for

non-payment from April 14, 2005 until February 13, 2006. The Member is currently registered in the General Class, and entitled to practice with no restrictions.

3. The Member was employed at Norfinch Care Community – Sienna Senior Living, a long-term care facility in North York, Ontario from 2007 until her employment was terminated on November 2, 2020 as a result of public statements she made on social media regarding the COVID-19 pandemic.

4. The Member was employed at S.R.T. MedStaff, a homecare agency in Toronto, Ontario, from 2004 until her employment was terminated on January 14, 2021 in relation to her off-duty conduct.

INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT

COVID-19 Pandemic

5. On March 11, 2020, the World Health Organization declared that COVID-19 was a global pandemic.

6. On March 17, 2020, the Government of Ontario declared a state of emergency in relation to the COVID-19 pandemic under s. 7.01(1) of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9.

7. On December 9, 2020, Health Canada authorized the Pfizer-BioNTech COVID-19 vaccine for use in relation to the COVID-19 pandemic.

8. On December 23, 2020, Health Canada authorized the Moderna COVID-19 vaccine for use in relation to the COVID-19 pandemic.

9. On February 26, 2021, Health Canada authorized the AstraZeneca COVID-19 vaccine and the Serum Institute of India's version of the AstraZeneca vaccine for use in relation to the COVID-19 pandemic.

Member's social media presence

10. At all relevant times, the Member publicly identified herself on Facebook using her name, "Sarah Choujounian". The Member identified herself as "Staff Nurse at Sienna Senior Living – Norfinch Community". This information about the Member's identity was available to any member of the public who accessed her posts or content on the Facebook platform. A screenshot of the Member's publicly available Facebook user profile is attached as **Exhibit "A"**.

11. The Member was at all relevant times a controlling mind of an organization known on social media as "Nurses Against Lockdowns", which later became part of a group known as "Canadian Frontline Nurses".

12. At all relevant times, the Member had control over the social media accounts for "Nurses Against Lockdowns", including accounts on Twitter, Facebook, and Instagram. All of the social media posts and profiles described in this Partial Agreed Statement of Facts were available to any member of the public who accessed those platforms.

13. On Twitter, the Member created the "Nurses Against Lockdowns" account in October 2020. The Twitter profile page describes the group as "Nurses and healthcare providers coming together to speak out [emoji] against the lockdowns & it's [*sic*] detrimental effects on our health. We are here to fight for humanity [emoji]". Some posts on the "Nurses Against Lockdowns" account include pictures of the Member. The profile repeatedly uses the hashtags "#nurses" "#healthcare" and "#nursing". A screenshot of the Twitter page containing the profile description of "Nurses Against Lockdowns" is attached as **Exhibit "B"**.

14. On Instagram, the Member created the account and profile for "Nurses Against Lockdowns", which states it was "Created 2 empower healthcare workers who disagree with the lockdowns." The profile also includes the statement "Let's get together, unite, organize & educate the world on the truth [emoji]". The Instagram profile includes multiple pictures of the Member. As of January 25, 2021, the Instagram profile had 100 posts and approximately 13,300 Instagram "followers". A screenshot of the Instagram profile description of "Nurses Against Lockdowns" is attached as **Exhibit "C"**.

15. On Facebook, the Member is identified as the "admin" of the "Nurses Against Lockdowns" Facebook group. The Facebook profile description states the group was "created to empower all healthcare workers who are not going along with the pandemic narrative and want this madness to end. It is a place where we can share our struggles and experiences and work together to get the truth out." The "Nurses Against Lockdowns" Facebook account includes multiple pictures of the Member. As of February 19, 2021, 24,426 Facebook users "followed" the page and 14,700 Facebook users had "liked" the page. Screenshots of the Facebook pages containing the "Nurses Against Lockdowns" profile description and information is attached as **Exhibit "D"**.

Public Speech posted on YouTube

16. On Saturday, October 31, 2020, the Member made a public speech at Yonge and Dundas Square in downtown Toronto, Ontario.

17. The Member posted video footage of the speech on YouTube using her personal account on November 1, 2020. The video is titled "Nurses Against Lockdowns 1st Speech at the freedom protest". As of February 2022, the YouTube video had over

1,500 views. A copy of the video is attached as **Exhibit "E"**, and a transcript of the video is attached as **Exhibit "F"**.

18. The Member also posted the video on her personal Facebook page. A screenshot of the Facebook post is attached as **Exhibit "G"**.

19. In the video, an unidentified individual introduces the Member as a "chief nurse steward". The Member identifies herself as "Sarah", "a nurse" who works "in a nursing home". The Member also identifies herself as the "founder of Nurses Against Lockdowns" which she describes as "an organization who aims at uniting all healthcare workers and giving them a voice".

20. During her speech on October 31, 2020, the Member made a series of statements with respect to the COVID-19 pandemic and public health measures. CNO is concerned with the following statement:

"Wearing a mask is unsafe for anyone, but it has even more detrimental effects on a growing child's brain development due to a decrease in oxygen intake, not only that, but facial recognition is super important for their social development, and let's not forget, that kids wearing masks makes them much harder for us to identify them, making it easier for predators to prey on them."

21. At the conclusion of her speech the Member states, "please join us on Facebook, Twitter or Instagram at Nurses Against Lockdowns or email us at nursesagainstlockdowns@hotmail.com. Let's get together and bring these psychopaths to justice."

Social media posts

22. On October 26, 2020, the Member tweeted on the "Nurses Against Lockdowns" Twitter page in response to a video that was tweeted by a user identified as "Alfred Lambremont Webre". The Member's tweet stated

> "Very easily understand [emoji] how harmless covid is compared to things like cardiovascular disease [emoji]… I love these movies where they draw as they go too!! [emoji]
>
> #pandemic #FactsMatter #perspectiveshift #Watchnow"

A screenshot of the Twitter page containing the Member's post is attached as **Exhibit "H"**.

23. On November 3, 2020, the Member posted an image of a statement attributed to Jason Christoff on the "Nurses Against Lockdowns" Instagram page. The statement reads as follows:

> "The RT-PCR test being used for COVID involves a cycling function. The more you cycle the test material in the lab, the more people test positive for COVID. If you cycle the test material 60 times, every sample tests positive for COVID. If you cycle it 10 times, no one tests positive. If you cycle it 30 times, some test positive and some don't. This means all our corrupt governments have full control of how many people test positive, depending on how many times they insist the test materials be cycled. They've picked this test purposely so they can up-regulate or down-regulate the pandemic at will…."

A screenshot of the Instagram page containing the image the Member posted is attached as **Exhibit "I"**.

24. On November 3, 2020, the Member posted an image containing the following statement on the "Nurses Against Lockdowns" Instagram page:

> "DID YOU KNOW? Those Blue Masks Mandated at grocery stores & airplanes are made of PTFE, a carcinogen made from synthetic fluoride. According to Cancer.Org it increases the risk of liver, testicle, pancreas, kidney and breast tumors + ulcerative colitis, thyroid disease, preeclampsia and high cholesterol. High exposure can cause influenza-like symptoms and haemorrhaging in the lungs, leading to suffocation. But no big deal…wear them everyday [*sic*] because it's the virtuous thing to do!"

A screenshot of the Instagram page containing the Member's post is attached as **Exhibit "J"**.

25. On November 9, 2020, the Member posted the following text on the "Nurses Against Lockdowns" Instagram page in relation to a list of COVID-19 directives for Peel Region that were to come into effect that day:

> "Here we go again!!![emoji]… are we just going to sit here and let this happen?[emoji] DO NOT COMPLY[emoji], these mandates and fines do not stand in court. We need to toughen up and disobey[emoji].
>
> #peelregion #lockdown #weddings #gatherings #gyms #restaurants #disobey @mandate #fines #bylaw"

A screenshot of the Instagram page containing the Member's post is attached as **Exhibit "K"**.

26. On November 23, 2020, the Member posted a link on the "Nurses Against Lockdowns" Facebook page to a video titled: "Maker of COVID Tests Says Pandemic is Biggest Hoax Ever Perpetrated". The Member posted the following comment

describing the video: "For those of you who haven't heard the recording yet…here's Dr.Hodkinson, maker of the covid test, stating that the whole pandemic is a hoax [emoji]". A screenshot of the Facebook page containing the Member's post is attached as **Exhibit "L"**. In this proceeding, CNO is concerned about the comment the Member posted on Facebook in connection with the video.

27. On December 6, 2020, the Member posted a link on the "Nurses Against Lockdowns" Facebook page to a video relating to the AstraZeneca COVID-19 vaccine. The Member posted the following comment: "I keep getting asked about this video so here it is again…ingredients include MRC-5 which is aborted fetal tissue[emoji]…please always make sure to do your own research my friends[emoji]". The video the Member linked contains statements by two unidentified women to the effect of:

    - The video should be shared with anyone who does not want "aborted fetal tissue fragments put into them" or their "DNA changed" (00:25)
    - "This COVID-19 vaccine that everybody is saying is going to save the world has a truckload of shit in it, but one thing it definitely has is the lung tissue of a 14 week old aborted Caucasian male fetus. That's been replicated over and over and over again for a long time." (03:38)

    A screenshot of the Facebook page containing the Member's post is attached as **Exhibit "M"**. A copy of the video linked in the Member's post is attached as **Exhibit "N"**.

28. On December 7, 2020, the Member posted a link on the "Nurses Against Lockdowns" Facebook page to a video with the title: "THE QUESTION ON EVERYONES MIND…" with the following comment: "Ask the experts [three emojis]." CNO is concerned with the following statements made by the video's speakers:

    - The COVID-19 pandemic is not a "real medical" pandemic, it is a fabrication, fake, scam, fraud, hoax (00:14, 00:57, 02:10, 04:05, 07:33, 07:40, 08:03, 08:55, 09:20, 09:59, 11:15, 13:00, 14:35, 16:20, 17:49, 19:45, 20:05, 24:02, 24:20, 25:40)
    - The COVID-19 vaccine is not safe or effective (00:18, 00:57, 01:55, 02:20, 07:34, 09:00, 09:35, 11:15,14:50, 15:13, 16:35, 17:49, 19:45, 20:05, 23:50, 24:20, 25:40)
    - No additional deaths have occurred in relation to COVID-19, there is no need for a new vaccine (00:39)
    - The COVID-19 vaccine may alter your DNA, genes, cells (08:29, 11:20, 22:20, 27:05)
    - COVID-19 is comparable in terms of harmfulness, mortality, transmissibility comparable to a seasonal flu (07:45, 17:40)

- Children don't suffer from COVID-19 (26:00)
- Vaccines can sterilize men, women and even their unborn children (24:41, 26:35)
- COVID-19 symptoms can successfully be treated with vitamins D, C, zinc, and other "safe medicines", and measures such as quarantining, masks, and vaccines are not necessary (04:50, 26:15)

A screenshot of the Facebook page containing the Member's post is attached as **Exhibit "O"**. A copy of the video linked in the Member's post is attached as **Exhibit "P".**

29. On December 8, 2020, the Member posted a link on the "Nurses Against Lockdowns" Facebook page to a video titled: "Cancer laced va$$ines" and made the following comment: "Watch Rachel Cellar RN go into details about what MRC-5 really is….they've been injecting us with this stuff for a very long time [emoji]". The linked video includes statements with respect to vaccines containing MRC-5 cell line and gene editing, including:

    - These vaccines "are made in a lab, they are using aborted human fetal cells" (00:54)
    - "The MRC-5 cell line is actually use, using aborted human fetal tissue. This fetal tissue has been around since the 1960s"(01:30)
    - "MRC-5 cell line contains aborted human fetal tissue from the 1960s" (02:00)
    - "Some of the vaccines that contain MRC-5 cell line are the MMR (measles-mumps-rubella), theravax, chicken pox, Hepatitis A & B, Twinrix, and polio vax" (02:25)
    - "The human genome is being rewritten by scientists" (03:30)
    - "This is basically injecting cancer into your body" (03:40)
    - "Basically they're taking aborted human fetal cells that are cancerous, and they are putting them into your vaccine" (04:35)
    - "Vaccines are bioweapons" (05:05, 06:28)
    - "You'll see an unusually high incidents of MS in nurses because nurses are given the vaccines" (06:13)
    - "Why would you inject cancer-laced vaccines into yourself, into your friends, into your family, don't do it" (07:25)
    - "This vaccine should be considered defective and potentially dangerous for human health, and in particular the pediatric population, who is much more vulnerable to genetic and autoimmune damage to the immaturity of the repair systems" (07:48)

    A screenshot of the Facebook page containing the Member's post is attached as **Exhibit "Q"**. A copy of the video linked in the Member's post is attached as **Exhibit "R"**.

30. On December 28, 2020, the Member posted the following statement on the "Nurses Against Lockdowns" Instagram and Facebook pages:

> "Reminder: As nurses, we took an oath to do no harm[emoji]… promoting & advertising taking an experimental unsafe vaccine is a crime against humanity & in direct conflict with that oath[emoji]".

A screenshot of the Instagram page containing the Member's post is attached as **Exhibit "S"**. A screenshot of the Facebook page containing the Member's post is attached as **Exhibit "T"**.

31. On January 17, 2021, the Member posted a link on the "Nurses Against Lockdowns" Facebook page to a video with an interview between Alex Newman of The New American and Dr. Lee Merritt with the following comment: "Great interview with former president of AAPS Dr. Lee Merritt who tells us what she thinks about what's happening & the experimental "vaccine". Share away [emoji]". The linked video includes statements by Dr. Merritt to the effect of:

- Dr. Merritt believes that the first "generation" of COVID-19 virus was more deadly and killed a lot of people in Wuhan and Lombardi, including nurses and doctors. This first generation then arrived in New York, and it did kill people initially. However, the COVID-19 virus, just like most viruses which pass through a human host, become weaker, less deadly, and more transmissible. (08:00)
- COVID-19 is "not all that deadly" and we have "treatment that works extremely well", we have "treatment" and it "really does work" (11:25)
- "If you have a treatment in your back pocket they cannot terrorize you with vaccines, I mean with viruses … the way they've made this experimental … it's not really a vaccine, whatever this thing is you want to sell it or call it, this Pfizer vaccine or Moderna vaccine, this RNA thing it doesn't prevent transmission by their own admission." (13:15)
- The Indonesians looked at the factors causing hospitalization and serious consequences from COVID-19, and found that the biggest factor were Vitamin D levels. Dr. Merritt states that the biggest thing people can do to prevent hospitalization or serious consequences from COVID-19 is to "get their Vitamin D levels up, and that the sun doesn't do it" (16:24)
- The COVID-19 vaccines are "experimental biologics, that I don't even like to call them vaccines" (18:30)
- With viruses like COVID-19 "[w]e pretty much have a treatment which is the hydroxychloroquine and ivermectin" (25:10)
- By using NAC, Vitamin C, Vitamin D, Zinc, Selenium, and Quercetin, individuals can improve their immune response, and own ability to fight off COVID-19 and not get "terribly sick". (26:20)

- "If you want to get out of the pandemic right now, it's really easy, you turn off your tv, you take off your mask, you reopen your business and you live your life. You hug your relatives, you go see your old relatives and you have neighbourhood parties. Because let me tell you, we cannot live in a basement even if you think masks work, don't do this to children. How many decades are you going to do this? Live every winter, every year, in a mask for now on? No, not doing that anymore. Masks don't work." (29:00)

A screenshot of the Facebook page containing the Member's post is attached as **Exhibit "U"**. A copy of the video linked in the Member's post is attached as **Exhibit "V"**.

32. On February 10, 2021, the Member posted a link on the "Nurses Against Lockdowns" Instagram page and Facebook page to a video and posted the following comment: "25 questions to ask people who still believe that we are in a pandemic (emoji)". The linked video includes 25 questions to ask "friends and family who still believe that we're in the middle of a deadly pandemic". Each question is posed as "if there really is a pandemic". The questions posed include:

    - #4 "Why are all the statistics saying that the death rate was within normal parameters last year?" (00:39)
    - #5 "Why have all the normal influenza deaths almost disappeared?" (00:50)
    - #6 "If the first lockdown worked, then why are we doing it again?" (00:57)
    - #7 "If the lockdowns didn't work, then why are we doing the same thing again?" (01:04)
    - #14 "If COVID doesn't affect children, then why are the schools shut?" (02:25)
    - #22 "Why do we need an experimental, DNA changing vaccine for a virus with a 99.97% recovery rate?" (03:40)

A screenshot of the Instagram page containing the Member's post is attached as **Exhibit "W"**, and a screenshot of the Facebook page containing the Member's post is attached as **Exhibit "X"**. A copy of the video linked in the Member's posts is attached as **Exhibit "Y"**.

CNO STANDARDS

33. The Member acknowledges that as a Member of CNO, she is subject to the following standards and guidelines, which were in force at all relevant times:

    - CNO's *Code of Conduct*, which is attached as attached as **Exhibit "Z"**;
    - CNO's *Professional Standards, Revised 2002* which is attached as attached as **Exhibit "AA"**; and
    - CNO's *Ethics* Standard, which is attached as **Exhibit "BB"**.

34. The Member denies she has contravened any standard of practice of the profession.

35. CNO published a document: *Professional Conduct: Professional Misconduct*, which is attached as **Exhibit "CC"**.

Nurses Supporting Public Health Measures – CNO Statement

36. On December 16, 2020, CNO published a statement entitled: *Nurses supporting public health measures*. CNO's statement is attached as attached as **Exhibit "CC"**.

International Nurse Regulator Collaborative Position Statement – Social Media Use: Common Expectations for Nurses

37. The International Nurse Regulator Collaborative ("INRC") includes CNO, the Nursing & Midwifery Board of Australia, the Nursing Council of New Zealand, the Nursing & Midwifery Board of Ireland, the National Council of State Board of Nursing, the Singapore Nursing Board and the College of Registered Nurses of British Columbia.

38. The INCRC released a Position Statement entitled: *Social Media Use: Common Expectations for Nurses*, which was available on CNO's website at all relevant times. The Position Statement is attached as attached as **Exhibit "DD"**.

ALLEGATIONS OF PROFESSIONAL MISCONDUCT

39. The Member denies that she committed the acts of professional misconduct as alleged in paragraphs 1 and 2 of the Notice of Hearing.

OTHER EVIDENCE AND SUBMISSIONS

40. The Member and CNO each reserve their right to introduce other evidence regarding the allegations of professional misconduct as long as such evidence does not contradict the facts agreed to herein. They also reserve the right to make submissions regarding what findings should be made with respect to the allegations of professional misconduct which the Member has denied.

The Panel heard submissions from both parties on qualifying expert witnesses. In this respect, the Panel was directed to the following cases: *R v. Mohan,* 1994 CanLII 80 (SCC), *Dulong v. Merrill Lynch Canada Inc.,* 2006 CanLII 9146 (ONSC), and *White Burgess Langille Iman v. Abbott and Haliburton,* 2015 SCC 23 (CanLII) (S.C.C.).

As established by the Supreme Court of Canada in *Mohan*, whether an expert's evidence will be admitted depends first on a consideration of four threshold factors: (1) relevance; (2) necessity in assisting the trier of fact; (3) the absence of any exclusionary rule; and (4) a properly qualified expert. *White Burgess* added to the analysis that to be properly qualified, an expert should be fair, objective and non-partisan; that is, an expert's opinion should not change regardless of

which party retained them. After considering whether a tendered expert meets the threshold requirements, we are required to conduct a second analysis as to probative value and risk of prejudice by admitting the expert evidence.

When assessing the qualifications of the parties' proposed experts, the Panel applied the criteria set out in *Mohan*, *White Burgess* and *Dulong;* including considering the proposed expert's professional qualifications, actual experience, participation or membership in professional associations, the nature and extent of their publications, involvement in teaching, efforts to keep current with the literature in the field and whether or not the proposed witness has previously been qualified to testify as an expert in the area.

Evidence of the College's Expert Witnesses

Witness #1 – Dr. Tony Mazzulli ("Dr. Mazzulli")

Dr. Mazzulli is an infectious diseases physician at Mount Sinai Health, and works directly with patients in internal medicine, medical microbiology and infectious diseases. Dr. Mazzulli has completed extensive research on viral diagnostics and rapid diagnostics. He is a Professor at the University of Toronto in the Department of Laboratory Medicine and Pathobiology, Faculty of Medicine. Dr. Mazzulli is also the Microbiologist-in-Chief for Mount Sinai Health and the University Health Network, and a consulting Medical Microbiologist for the Public Health Ontario Laboratories. During the COVID-19 pandemic, his laboratory performed over 3 million RT- PCR tests for the detection of SARS CoV-2.

In cross-examination, the Member's Counsel established that Dr. Mazzulli had not completed a doctorate degree, which Dr. Mazzulli acknowledged. Member's Counsel otherwise did not object to Dr. Mazzulli's qualification as an expert.

As requested by College Counsel, the Panel qualified Dr. Mazzulli as an expert in infectious diseases and medical microbiology with a specialty in diagnostic laboratory testing, including for SARS CoV-2 or COVID-19.

The Panel was satisfied that Dr. Mazzulli possessed the necessary expertise to assist the Panel based on his extensive clinical experience, specialized training, and recognized professional leadership in the relevant field. His qualifications and research involvement demonstrated a depth of knowledge well beyond that of the Panel, supporting his qualification as an expert witness.

Dr. Mazzulli testified about Statement #3 made by the Member, which he opined was false, misleading and inaccurate. Statement #3 reads in full:

> *"The RT-PCR test being used for COVID involves a cycling function. The more you cycle the test material in the lab, the more people test positive for COVID. If you cycle the test material 60 times, no one test positive. If you cycle it 30 times, some test positive and*

> *some don't. This means all our corrupt governments have full control of how many people test positive, depending on how many times they insist the test materials be cycled. They've picked this test purposely so they can up-regulate or down-regulate the pandemic at will…"*

Dr. Mazzulli testified that a PCR (Polymerase Chain Reaction) test looks for genetic material which can help clinicians diagnose illness. He explained the underlying concepts related to RT (Reverse Transcription)-PCR testing. The test is designed to amplify the genetic material contained in the sample. It does this using chemical reagents and various temperature changes wherein each cycle of amplification doubles the genetic material. The manufacturer of the test determines a cycle threshold ("Ct") which is the point that further amplification of the sample will not be useful. The chemical reagents will also start to degrade. Most manufacturers produce RT-PCR tests with Ct of 35-40, 40 being the most common.

If no genetic material is detected once the Ct is reached, the sample is determined to be negative (i.e. it does not contain genetic material of the SARS- CoV-2 virus). If genetic material is detected at any time before the Ct is reached, the sample is determined to be positive (i.e. SARS-CoV-2 virus is present).

With respect to the portion of Statement #3 which reads: "*The RT-PCR test being used for COVID-19 involves a cycling function"*, Dr. Mazzulli testified that this is inaccurate, false and/or misleading because the RT-PCR test works by having the reagents undergo a temperature change over time. This is part of the test and is not a "cycling function" per se.

With respect to the portion of Statement #3 which reads: "*The more you cycle the test material in the lab, the more people test positive for COVID",* Dr. Mazzulli testified that this statement is inaccurate, false and/or misleading. Dr. Mazzulli testified that once 40 cycles have been completed and the virus is not detected, the reaction is stopped. The risk of testing beyond the Ct is that there are non-specific reactions and the reagents have broken down such that the results will be inaccurate, and therefore, there is no value in continuing.

On cross-examination, the Member's Counsel asked Dr. Mazzulli whether RT-PCR tests run the risk of generating false positives. Dr. Mazzulli responded that any test can result in a false positive, which is why the sensitivity and specificity of the test are pre-determined. Dr. Mazzulli opined that considering that false results are possible, it is safer to have a false positive result than a false negative result as a false negative could result in an infectious person infecting another person unknowingly.

The Member's Counsel also asked Dr. Mazzulli whether material cycled only once would likely test positive. Dr. Mazzuli testified that if there was enough virus in the sample to get a signal, then theoretically the answer to this question was yes. However, amplification of the sample is necessary to increase the sensitivity and specificity of the test. The Member's Counsel put to Dr. Mazzulli that the more cycles that occur, the more likely for traces of SARS-CoV-2 virus to be

detected. Dr. Mazzulli agreed with Member's Counsel but cautioned that the sample would need to contain sufficient virus, i.e. if the virus is not present, it would not be detected regardless of how many cycles occur. Dr. Mazzulli also testified that all commercial tests stop at 40 cycles because the utility of the test is lost after that. Dr. Mazzulli testified that test results can also be impacted by other factors such as the viral load in the patient or sampling technique.

With respect to the portion of Statement #3 which reads: "*If you cycle the test material 60 times, every sample tests positive for COVID",* Dr. Mazzulli testified that it is false and misleading. Dr. Mazzulli testified that PCR tests would not cycle 60 times since all commercial tests stop at 40 cycles because the utility of the test is lost after 40 cycles as all the chemicals and reagents would have broken down.

With respect to the portion of Statement #3 which reads*: "If you cycle it 10 times, no one tests positive",* Dr. Mazzulli testified that this statement is inaccurate, false and/or misleading. Dr. Mazzulli testified that RT-PCR tests are very sensitive and even very small amounts of virus will be detected early in the testing if genetic material is present in the sample.

With respect to the portion of Statement #3 which reads*: "If you cycle it 30 times, some test positive and some don't"*, Dr. Mazzulli testified that this statement is misleading. Dr. Mazzulli testified that the number of cycles required before a test is positive for a specific sample depends on how much virus is present in the sample. If you start with a sample with a large amount of virus from a heavily infected individual, you will get a positive result early in the testing. A sample with intermediate or moderate amounts of virus will take more cycles for the virus to be detected and samples with less virus may take closer to 35 -40 cycles for detection. Dr. Mazzulli testified that if there is no virus in the sample, the sample can be cycled 10, 20, 38 or 40 times and it will remain negative as there is no virus to be detected.

With respect to the portion of Statement #3 which reads*: "This means all our corrupt governments have full control of how many people test positive, depending on how many times they insist the test materials be cycled",* Dr. Mazzulli testified that this statement is inaccurate, false and/or misleading. Dr. Mazzulli testified that the government does not set the parameters of the test. Rather, the parameters of the test, including the Ct, are set by either the developer or the manufacturer of the test. Dr. Mazzulli testified it is not possible for the government to control the number of cycles.

Regarding the assertion that governments have complete control over the number of positive test results, Dr. Mazzuli stated that this is false, misleading, and inaccurate. According to Dr. Mazzulli, governmental authorities do not determine test parameters; these are established by the test developer or manufacturer, including conditions and cycling parameters. Furthermore, Dr. Mazzulli emphasized that it is not feasible for the government to influence the number of cycles set by laboratory or clinical personnel.

On cross examination, the Member's Counsel put to Dr. Mazzulli that he is not an expert on government corruption. The Member's Counsel suggested that based on Dr. Mazzulli testimony, it was fair to say that RT-PCR tests ultimately must be approved by Health Canada and that Health Canada has some measure of control over which tests get approved and which tests do not. Accordingly, Member's Counsel suggested that Health Canada could influence the Ct needed for each test. Dr. Mazzulli responded that it is Health Canada's job is to ensure that the data supports the claims the manufacturer indicates for their Cts.

On re-examination, College Counsel asked Dr. Mazzulli to review the rate of false positives when testing with RT-PCR tests. Dr. Mazzuli testified that most tests have a specificity well over 96-97%, with less than 1-2% false positives.

With respect to the portion of Statement #3 which reads*: "They've picked this test purposely so they can up-regulate or down-regulate the pandemic at will",* Dr. Mazzulli testified that this statement is inaccurate, false and/or misleading. He explained that the government does not set the parameters for the test, and that the variability in how many people test positive is related to the spread of the virus in the population and people coming forward to be tested.

On re-examination, College Counsel reviewed Exhibit #7, Dr. Mazzulli's reply report where he responded to the expert reports of Dr. Bridle and Dr. Pelech. The Panel only considered Dr. Mazzulli's testimony related to areas in which Dr. Bridle and Dr. Pelech were qualified as experts. Dr. Mazzulli responded to statements regarding Ct cut-offs in Dr. Bridle's expert report. Dr. Bridle wrote in his report that "Ct cutoffs were arbitrarily assigned for SAR-CoV2 PCR". Dr. Mazzulli testified that the threshold cutoffs were developed and assigned by careful laboratory-controlled studies with samples with known viruses. Dr. Mazzulli testified that a cycle number of 40 is the standard used in RT-PCR tests.

Witness #2 – Dr. David McKeown ("Dr. McKeown")

Dr. McKeown is a physician with specialties in public health and preventative medicine. Dr. McKeown acted as the Medical Officer of Health for various regional public health authorities for three decades. He has held leadership roles in the public health response to many infectious diseases including the 2003 SARS pandemic, the 2008 H1N1 influenza pandemic, and the COVID-19 pandemic. Dr. McKeown was the Associate Chief Medical Officer of Health at the Ontario Ministry of Health during the COVID-19 pandemic and has served as Chair of the Public Health Measures Table and was a member of the Science Advisory Table.

The Panel qualified Dr. McKeown as an expert in public health and epidemiology, and in particular, in coordinating public health responses to infectious diseases including the COVID-19 pandemic.

The Panel concluded that Dr. McKeown was qualified as an expert due to his substantial clinical experience, specialized training, and respected professional leadership in his area of expertise.

Dr. McKeown adopted the contents of his report (Exhibit #11) and confirmed that he relied on data and information from Public Health Ontario ("PHO") that would have been available at the time of the Member's statements. Dr. McKeown testified that PHO had a mandate to provide information on health issues affecting the population of Ontario and that the data it published was reliable. Dr. McKeown testified that the reporting of cases of COVID-19 to PHO was made mandatory early in the pandemic. PHO also routinely published reports about the status of the pandemic in Ontario and provided advice to health care practitioners. Dr. McKeown explained that while PHO is a government-funded agency, it has a mandate to act as an independent source of scientific information. PHO's reports are available to the public, and Dr. McKeown testified that these reports are the most accurate source of data about COVID-19.

Dr. McKeown testified about statements #2, #6, #8, #10, #11 and #12 made by or otherwise shared by the Member. In Dr. McKeown's expert opinion, as described below, these statements were inaccurate, false and/or misleading.

Statement #2

Statement #2 posted by the Member on her social account reads: "Very easily understand [thinking emoji] how harmless covid is compared to things like cardiovascular disease [heart emoji]".

Dr. McKeown testified that the comparison of COVID-19 to cardiovascular disease is inaccurate, false and/or misleading. In 2020, COVID-19 was a new acute infectious disease responsible for a pandemic and cardiovascular disease is a group of well-established chronic diseases. Dr. McKeown testified that a straight comparison between the two was difficult to make, and doing so as the Member did was inaccurate, false and/or misleading.

Dr. McKeown testified that a pandemic of an infectious disease is a more urgent concern than a chronic disease such as cardiovascular disease due to a pandemic's potential for rapid increase in illness and death globally if control measures are not implemented. Dr. McKeown testified that at the time the statement was made, COVID-19 had been causing illness for less than a year and reported cases were increasing rapidly in Ontario.

Dr. McKeown referred to data from the PHO Weekly Epidemiology Summary. At the time of the Member's statement, there was ample evidence that COVID-19 was harming Ontarians. Cases of COVID-19 had been increasing by 5,000 new infections per week and total deaths caused by COVID-19 had reached 3,063.

In cross-examination, the Member's Counsel put to Dr. McKeown a PHO publication from 2015 entitled "The Burden of Chronic Diseases in Ontario". Dr. McKeown agreed that deaths from all categories of cardiovascular disease in 2015 (26,012 deaths) were greater than the number of deaths from COVID-19 infections in Ontario in October 2020 (3,602). The Member's Counsel asked Dr. McKeown to explain why the Member's statement, that COVID-19 was relatively harmless as compared to cardiovascular disease, was misleading. Dr. McKeown testified that

the Member's statement would have been accurate if it had read that cardiovascular disease caused more deaths than COVID-19, because this would have been factual; however, to say that 3,602 deaths are harmless is inaccurate. Dr. McKeown testified that less harm is not the same as harmless, because harmless would mean no deaths. It is the Member's use of 'harmless' that makes the statement misleading and inaccurate.

Statement #6

The Member posted a link to a video titled, "Maker of COVID Tests Says Pandemic is Biggest Hoax Ever Perpetrated" with the following comment: "For those of you who haven't heard the recording yet…here's Dr. Hodkinson, maker of the covid test, stating that the whole pandemic is a hoax".

Dr. McKeown testified that this statement contains false information, and that there was no evidence to support the statement at the time it was made. Dr. McKeown testified that there had been widespread recognition about the existence and seriousness of the COVID-19 pandemic by health experts and institutions such as the World Health Organization ("WHO") and the government of Ontario. Dr. McKeown testified to the definition of a pandemic, which is an outbreak of communicable disease affecting large numbers of people in many parts of the world. The WHO determines if an outbreak of a disease constitutes a pandemic and on March 11, 2020, the WHO declared COVID-19 a pandemic. Dr. McKeown testified that a pandemic is, by definition, serious because of the scale of impact and that describing the COVID-19 pandemic as a hoax is a false statement.

In cross-examination, Dr. McKeown testified that he did not recall reviewing the video that was linked to the post identified as statement #6 but rather was asked to testify about the Member's statement itself. Dr. McKeown reiterated his opinion that the Member's statement was false.

The Member's Counsel directed Dr. McKeown to exhibit #51, an article entitled "What is a Pandemic" and asked if it was possible for different people to have different definitions of a pandemic. While Dr. McKeown had not reviewed the article, he acknowledged that some people may have different views on what constitutes a pandemic. Nevertheless, Dr. McKeown opined that the WHO definition of a pandemic is widely accepted. Dr. McKeown was asked by Member's Counsel if he agreed that the science that has guided governments has been driven mostly by epidemic modellers and infectious disease specialists. Dr. McKeown disagreed with this proposition, indicating that other areas of expertise, including societal impact, were also considered by governments in their response to the COVID-19 pandemic.

Statement #8

This statement included a link to a video in relation to the COVID-19 pandemic with the title "THE QUESTION ON EVERYONES MIND…" The video linked by the Member in this statement contained several propositions about the COVID-19 pandemic, which Dr. McKeown reviewed

and testified were inaccurate, false and/or misleading. Dr. McKeown responded to several of the questions included in this video. Some of his testimony is set out below.

The video linked by the Member claimed that "*COVID-19 is comparable in terms of harmfulness, mortality, transmissibility comparable to a seasonal flu".*

Dr. McKeown testified that, at the time this statement was made, there was widespread recognition of the existence and seriousness of the number of COVID-19 cases. Dr. McKeown compared the case count and deaths from seasonal influenza for 2016-2019 to COVID-19 statistics up until November 28, 2020. The data demonstrated that COVID-19 had caused 7.8 times more cases and 23 times more deaths since the pandemic began, compared to the average number of cases and deaths for seasonal influenza in the preceding four years. Dr. McKeown testified that it was false to describe the harmfulness and mortality of the two diseases as "comparable".

Regarding transmissibility, Dr. McKeown testified that it is more difficult to draw a comparison between influenza and COVID-19 as transmissibility varies with different COVID-19 variants. Different influenza strains also have different rates of transmissibility. Dr. McKeown testified that the US Center of Disease Control concluded that of the two viruses, COVID-19 was more transmissible.

On re-examination, Dr. McKeown also testified that when comparing influenza and COVID-19, he relied on the population harm which he opined is more important for public health purposes than death rates. Dr. McKeown testified that 3,694 deaths from COVID-19 by November 2020 is more significant than 159 deaths on average per year caused by influenza.

The video linked by the Member in statement #8 also includes the statement that "*Children don't suffer from COVID-19".*

Dr. McKeown testified that this is a false statement. Dr. McKeown testified that children may suffer less and are less likely to die from COVID-19, but it was incorrect to say they do not suffer. In his report, Dr. McKeown noted that PHO's COVID-19 Weekly Epidemiologic Summary for December 1, 2020, reflected over 7,500 cases of COVID-19 in children between 4 - 17 years old. Dr. McKeown noted that most cases were mild but up to 0.1% - 7% required hospitalization or intensive care admission.

<u>Statement #10:</u>

The Member posted a statement: "Reminder: As nurses we took an oath to do no harm … promoting & advertising taking an experimental unsafe vaccine is a crime against humanity & in direct conflict with that oath."

Dr. McKeown opined that this statement was false at the time it was made. Dr. McKeown testified that there is a system in Canada to determine when a vaccine is safe for use and to recommend when the vaccine should be used by the general population. This system was in place to authorize the COVID-19 vaccines and were approved by Health Canada by means of an accelerated process, but this did not mean that the process was less rigorous. While Health Canada used a "rapid approval" process, Dr. McKeown opined that this did not change the threshold of evidence required.

Dr. McKeown testified that the initial mRNA vaccines produced by Pfizer and Moderna were authorized by December 2020 because they met the same standards as other vaccines approved for use in Canada. Dr. McKeown testified that the benefits of the vaccines outweighed the risks. He explained that Health Canada is a federal government agency responsible for the approval of medical interventions such as vaccines or drugs. Dr. McKeown testified that the word "experimental" does not have a regulatory meaning, and that there is no vaccine classified as "experimental". Dr. McKeown opined that most people would conclude, based on the Member's statement, that vaccines have not been assessed and approved for use by the appropriate authority which is false.

Dr. McKeown testified that if a vaccine has been approved for use, it has been determined to be safe for the general population. The government continues to monitor the vaccine for adverse effects in a process called post market surveillance, which is followed for all approved vaccines. Dr. McKeown explained that if Health Canada approves a vaccine, it is inherently evidence-based because the approval process involves the review of evidence, safety efficacy, as well as an assessment of the quality and risk compared to benefits. This is a widely accepted approach for approving vaccines.

Dr. McKeown testified that the approval and availability of the COVID-19 vaccines in December 2020 was significant since vaccines are a vital tool to reduce the impact of cases of COVID-19 on the health care system and population. At an individual patient level, vaccines are effective at reducing the severity of illness and the mortality rate. At the population level, there was a significant concern that COVID-19 would overwhelm the health care system and other illnesses would not receive the care and treatment that they require. Further, if a significant portion of the population is immunized (i.e. herd immunity), it becomes less likely that those who are not immunized would have a severe illness in response to exposure. Individuals who were unable to be immunized rely on herd immunity.

Dr. McKeown explained that health professionals are generally seen as important and reliable sources of information regarding medical issues, and in the case of immunization, health care professionals have an important role to play not only in administering vaccinations but encouraging people to be immunized. It is part of the professional responsibility of health professionals to advocate for effective interventions such as immunization. Nurses demonstrate the oath "to do no harm" by promoting and advocating for the use of vaccines. Accordingly, Dr. McKeown opined that there is no basis that there was a "crime against humanity".

Statement #11

The Member posted a link to a video with an interview in relation to the COVID-19 pandemic with an individual who identified themselves as Dr. Lee Merritt. The Member commented: "Great interview with former president of AAPS Dr. Lee Merritt who tells us what she thinks about what's happening & the experimental 'vaccine'. Share away [emoji]." Dr. McKeown responded to several of the questions included in this video, and some of his testimony is set out below.

The video shared by the Member included the statement that "*COVID-19 is 'not all that deadly'*".

Dr. McKeown testified that saying this is not a reasonable statement and that it is false. At the time of the Member's post, Ontario had experienced 5,126 deaths from the pandemic which was a significant scale of mortality.

The video shared by the Member included a statement that the COVID-19 virus had become "*weaker, less deadly, and more transmissible."*

Dr. McKeown testified that this statement is inaccurate, and that there was significant mortality early in the pandemic. While viruses are known to evolve, it is not true to say, as a rule, that viruses always become weaker, less deadly and more transmissible over time. Dr. McKeown testified that some strains of COVID-19 were more transmissible and had more impact on mortality as the pandemic continued. Transmissibility and harm are not straightforward and are more complex than what Dr. Merritt suggests. For instance, a virus that infects 50% of a population but does not cause mortality is more worrisome than a virus that infects fewer but has a higher mortality.

The video shared by the Member also included the following statement:

"If you want to get out of the pandemic right now, it's really easy, you turn off your tv, you take off your mask, you reopen your business and you live your life. You hug your relatives, you go see your old relatives and you have neighborhood parties. Because let me tell you, we cannot live in a basement even if you think masks work, don't do this to children. How many decades are you going to do this? Live every winter, every year, in a mask for now on? No, not that anymore. Masks don't work."

Dr. McKeown testified that this statement was false at the time it was made. A PHO study from September 2020 concluded that wearing masks in public was likely beneficial as source control when worn by people shedding SARS-CoV-2 virus. Dr. McKeown testified that, in contrast, this statement advocates adopting behaviours which are known to increase the transmission of the virus (i.e. hugging, visiting older adults without masks). As of January 2021, public health authorities were recommending social distancing and avoiding contact with the elderly, who

were at very high risk for severe illness or death should they become infected with COVID-19. Taking measures to protect vulnerable populations was a priority of pandemic management.

Dr. McKeown testified that if people followed the advice contained in the Member's statement, it would be expected to increase COVID-19 transmission. Dr. McKeown testified that all COVID-19 prevention measures were recommendations that were understood at the time to be effective in preventing the transmission of COVID-19.

Finally, the video shared by the Member included the following statements about the mRNA vaccines for COVID-19 being experimental:

> *"If you have a treatment in your back pocket they cannot terrorize you with vaccines, I mean with viruses ... the way they've made this experimental ... it's not really a vaccine, whatever this thing is you want to sell it or call it, this Pfizer vaccine or Moderna vaccine, this RNA thing it doesn't prevent transmission by their own admission.."*
>
> *"The COVID-19 vaccines are experimental biologics, that I don't even like to call them vaccines".*

Dr. McKeown testified that these statements were false at the time they were made. Dr. McKeown testified that the Pfizer and Moderna vaccines are true vaccines, not experimental or experimental biologics. Vaccines over the years and even today use different mechanisms to stimulate an immune response.

> *"The COVID-19 virus, just like most viruses which pass through a human host, become weaker, less deadly, and more transmissible".*

Dr. McKeown testified that the parts of this statement which deal with the scale of the impact of COVID-19 in parts of China, New York and Italy are true. There was a very large outbreak in those jurisdictions, and these involved significant mortality at the beginning of the pandemic. Dr. McKeown testified, however, that it is not true that viruses passing through a human host become weaker, less deadly, and more transmissible. While it is possible, it does not always happen as indicated in this statement. Viruses evolve over time, some more than others (i.e. influenza), and different strains develop and behave differently. It is possible that at the time that the statement was made viruses could become stronger and deadly and more transmissible over time.

College Counsel asked Dr. McKeown whether, in his opinion, it was responsible for a health care professional to spread the view that COVID-19 will necessarily become weaker and less deadly over time. Dr. McKeown testified that the statement was not accurate and so it was not responsible. Dr. McKeown added that the issue of harm is more complex than the statement suggests: viruses which are more transmissible and therefore infect a larger portion of the

population may cause more harm because of the number of people infected even if the virus is less deadly at the individual level.

Statement #12:

The Member posted a link to a video titled "25 questions to ask people who still believe that we are in a pandemic (smile emoji)". Dr. McKeown responded to several of the questions included in the video, and his testimony is set out below.

> *"Why are all the statistics saying that the death rate was within normal parameters last year?"*

Dr. McKeown testified this was an inaccurate statement. While death statistics were available, it was premature to comment on the death rate in February 2021. Death rates can only be evaluated two to three years after an event.

> *"Why have all the normal influenza deaths almost disappeared?"*

Dr. McKeown testified this was a misleading, rather than a false statement, as the influenza statistics would not have been known at the time due to a delay in available mortality data. As well, it was anticipated that the measures to reduce COVID-19 transmission would likely reduce transmission of other viruses, including influenza. Dr. McKeown explained that this statement is also misleading by implying that the number of influenza deaths can provide information about the COVID-19 pandemic. In fact, in Dr. McKeown's opinion, it speaks more about the control measures that were put in place and their effect on the population.

> *"If the first lockdown worked, then why are we doing it again?"*
> *"If the lockdowns didn't work, then why are we doing the same thing again?"*

Dr. McKeown testified this was false. Dr. McKeown testified while the term "lockdown" is not generally used in public health documents, it generally refers to interventions implemented by public health to reduce person to person contact thereby reducing exposure to the virus. Such interventions are always used in a pandemic and are effective when they are in place. If the interventions are lifted and cases re-occur, interventions would need to be reintroduced. Dr. McKeown testified that the lockdowns helped reduce the peak of cases (i.e. flatten the curve), change the time distribution of cases and reduce the impact on the health care system.

> *"If COVID doesn't affect children, then why are the schools shut?"*

Dr. McKeown testified that this statement is false, as COVID-19 does affect children. There were thousands of cases and some serious illness among children. Shutting down schools prevented transmission between children but also between children and others at higher risk (i.e. elderly relatives).

> *"Why do we need an experimental, DNA changing vaccine for a virus with a 99.97% recovery rate?"*

Dr. McKeown testified that saying the vaccine is experimental is inaccurate, false and misleading. It is a false statement to quote a 99.97% recovery rate even though most people recover from COVID-19. At the time of the Member's statements, 6,594 deaths had occurred in Ontario because of COVID-19, which constitutes a very significant impact on the population. In addition to fatalities, COVID-19 had other effects including more hospitalizations, more intensive care admissions, and reduced productivity because of time off work. Most diseases have a low fatality rate, but immunization is effective to reduce the effect on the population.

Dr. McKeown testified that if the overall statements made by the Member are heard and appreciated by different audiences, that can have a very significant effect; however, if it is one of a series of different voices that are circulating false and misleading information then it would have an impact on the public understanding of COVID-19 and their behaviours in the pandemic.

In cross-examination, Member's Counsel suggested that PHO was inconsistent with its guidance through the COVID-19 pandemic. Dr. McKeown disagreed with this statement. Dr. McKeown testified that the evidence evolved over the course of the pandemic, that much research was done and that public health guidance changed as the evidence evolved. Dr. McKeown testified that over the course of the pandemic, there were thousands of studies published on different aspects of the virus and pandemic control measures, including masking, and the interpretation of the evidence can change month to month.

Member's Counsel asked Dr. McKeown if any of these statements made by the Member were later found to be true. Dr. McKeown testified that as a public health physician, he has an obligation to provide an opinion on what was known at the time.

Witness #3 – Dr. David Juurlink ("Dr. Juurlink")

Dr. Juurlink is a physician with a doctorate in clinical epidemiology. Dr. Juurlink completed his residency in internal medicine, with specializations in medical and clinical toxicology and clinical pharmacology, and a subspecialty in clinical pharmacology focusing on adverse drug reactions. He is professor in the Faculty of Medicine at the University of Toronto. Dr. Juurlink is an internal medicine clinician and has treated patients with COVID- 19 since the beginning of the pandemic. Dr. Juurlink specializes in medical scientific research, and particularly the evaluation of medical research.

The Member's Counsel did not cross-examine or object to Dr. Juurlink's qualifications. The Panel qualified Dr. Juurlink as an expert in internal medicine, and particularly as a clinical expert treating patients with COVID-19 and those experiencing adverse drug reactions, clinical pharmacology and clinical epidemiology, the evaluation of medical scientific research and drug safety and drug reactions in respect of drugs and vaccines used to treat COVID-19.

The Panel determined that Dr. Juurlink's comprehensive clinical experience, advanced training, and established professional leadership within the relevant discipline demonstrated his expertise and qualified him as an expert. His qualifications and active engagement in research demonstrated a superior level of knowledge compared to that of the Panel.

Dr. Juurlink testified that, on the hierarchy of medical evidence, randomized controlled trials are considered the 'gold standard' in establishing whether a drug or intervention can do what they claim to do.

Dr. Juurlink testified that numerous statements made by the Member were inaccurate, false and/or misleading, as follows.

Statement #1

In a public speech posted to YouTube on October 31, 2020, the Member stated that "wearing a mask is unsafe for anyone, but it has even more detrimental effects on a growing child's brain development due to a decrease in oxygen intake, not only that, but facial recognition is super important for their social development, and let's not forget, that kids wearing masks makes them much harder for us to identify them, making it easier for predators to prey on them."

Dr. Juurlink testified that the statement was false. Dr. Juurlink testified for this statement to be true, there would have to be a profound reduction in the oxygen content of blood in young children and would be associated with some sort of quantitative reduction in brain development. Dr. Juurlink testified that he has worn masks for "thousands of hours" in his professional practice. There is also an enormous amount of heath care professionals that wore masks regularly prior to the pandemic in environments such as surgical operating rooms. If masks worked the way that the Member's statement suggested, there would be evidence to support this.

Dr. Juurlink testified that the "possibility that surgical masks compromise oxygenation of the brain was untrue at the time the comment was made, and it remains untrue today". Dr. Juurlink's written report indicated that the literature on the "physiological consequences of masking is vast". Dr. Juurlink referenced an article by Lubrano et al. (2021) on oxygenation in infants and children that showed no appreciable difference in oxygenation, even after exertion, while wearing masks. Dr. Juurlink referenced another study by Shaw et al. (2021) involving young hockey players. The players were tested for various parameters, including oxygenation, in a series of simulated hockey shifts while wearing surgical masks and sham masks. There was no significant difference in oxygenation between shifts while wearing either of the masks.

Dr. Juurlink acknowledged that masks may impede the exhalation of carbon dioxide, as referenced in Dr. Bridle's report. In Dr. Juurlink's opinion, however, this was not clinically

significant and there was no basis for Dr. Bridle's assertion that mask wearing is associated with multiple physical problems.

Dr. Juurlink was not asked to opine about the role of masks and their impact on facial recognition, social development or that masks make it "easier for predators to prey".

With respect to the accuracy and veracity of the Member's statements taken together, Dr. Juurlink testified that the Member's statement was false as it was based on little or no science, was largely untrue, misinformed the public and to the extent that people heeded her comments, that the statement was potentially harmful.

While the Member's Counsel cross-examined Dr. Juurlink on Dr. Bridle's testimony about the effects of mask-wearing, the Panel did not qualify Dr. Bridle on this issue and accordingly disregarded Member's Counsel cross examination of Dr. Juurlink related to Dr. Bridle's statements.

Member's Counsel questioned Dr. Juurlink about whether it is reasonable for members of the public to review articles in medical journals to inform their opinion. Dr. Juurlink testified that it is not unreasonable to expect people to read articles that might have a bearing on their health. However, in the absence of specific education and training, articles can be misinterpreted.

Statement #4

In an Instagram post on November 3, 2020, the Member wrote that "…Those Blue Masks Mandated at grocery stores & airplanes are made of PTFE, a carcinogen made from synthetic fluoride. According to Cancer.Org it increases the risk of liver, testicle, pancreas, kidney and breast tumors + ulcerative colitis, thyroid disease, preeclampsia and high cholesterol. High exposure can cause influenza-like symptoms and haemorrhaging in the lungs, leading to suffocation. But no big deal…wear them everyday because it's the virtuous thing to do."

Dr. Juurlink testified that the Member's statement was false when it was made and remains false today. Dr. Juurlink testified that PTFE (the acronym for polytetrafluoroethylene, a polymer more commonly known as Teflon™) is not used in the creation of surgical masks. Dr. Juurlink testified that most surgical masks are made of polymers such as polypropylene or polycarbonate or polystyrene. These polymers are not carcinogenic and are distinct from PTFE. Dr. Juurlink testified that he reviewed Cancer.org and saw no entry for PTFE, although there were entries for other polymers such as PFOA (perfluorooctanoic acid) and PFOS (perfluorooctane sulfate). Dr. Juurlink testified that in his capacity as a clinical toxicologist, he had never treated anyone for cancer or other toxic effects related to mask wearing.

On cross examination, while Dr. Juurlink was unable to provide a reference for his opinion that blue surgical masks do not contain PTFE, he nevertheless maintained that he was unaware of

any evidence to support the Member's assertion that some masks contain PTFE, which is a carcinogen.

Statement #7

On December 6, 2020, the Member posted a link to a video which included the statement that the COVID-19 vaccine contained MRC-5, which is aborted fetal issue. Dr. Juurlink responded to several of the questions raised in this video. Some of his testimony is set out below.

Dr. Juurlink testified that the Member's statement is inaccurate, false, and/or misleading. Dr. Juurlink testified that there is no basis for the claim at the time it was made and that manufacturers would have strong disincentives to do that. Dr. Juurlink testified that MRC-5 was not used to make the COVID-19 vaccine. While other fetal cell lines were used to make some of the COVID-19 vaccines, the vaccine itself does not contain fetal cell lines.

The video posted by the Member also included the statement that the COVID-19 vaccine changed the recipient's DNA. Dr. Juurlink testified that this was false, as DNA lives inside the nucleus of the cells and the mRNA vaccines do not enter the nucleus of the cells. Accordingly, the mRNA does not alter human DNA. Rather, Dr. Juurlink explained that mRNA vaccines deliver fragments of the spike protein mRNA, and human cells use that fragment to make a protein resembling the spikes which then help to generate an immune response.

Dr. Juurlink explained the medicinal and non-medicinal ingredients in two mRNA vaccines (Pfizer and Moderna) and two adenovirus vector vaccines (AstraZeneca and Janssen). Dr. Juurlink testified that nonmedicinal ingredients are common in vaccines as preservatives, to maintain sterility, to enhance the immune response and as binders, fillers and coatings. Dr. Juurlink testified that the role of physicians and nurses who administer vaccines is to be aware of anyone who reports a previous hypersensitivity to a vaccine. In those instances, the physician or nurse should ask about the nature of the reaction and review the components of the vaccine to determine whether the current vaccine has common ingredients.

Statement #8

On December 7, 2020, the Member posted a link to a video with the title "THE QUESTION ON EVERYONES MIND…", which included the following statements italicized below. Dr. Juurlink responded to several of the questions included in this video. Some of his testimony is set out below.

> *"The COVID-19 vaccine is not safe or effective."*

Dr. Juurlink testified that statement contains inaccurate, false, and/or misleading information. When the statement was made, there had been no widespread use of the COVID-19 vaccine. Dr. Juurlink testified that the Member would not have the grounds to make that claim.

Dr. Juurlink testified that when it comes to "effectiveness", the most common use of the term is efficacy which means the ability of the drug to do what it is claimed to do based on randomized controlled
trials. Health Canada approved COVID-19 vaccines because the manufacturers provided Health Canada with evidence from randomized controlled trials that the vaccines were effective.

On the issue of safety, Dr. Juurlink testified that the vaccines have been used by millions of people around the world and anyone injected with a vaccine could have a reaction, even a minor reaction, but the term "safe" is not binary. The overarching goal is that the therapy affords the recipient more benefits than potential for harm. Dr. Juurlink cited a systematic review which concluded that " ... the COVID-19 vaccines have successfully reduced the rates of infections, severity, hospitalization and mortality among different populations".

In cross examination, Dr. Juurlink was asked if the randomized controlled trial was designed to run for six months but for ethical considerations it was cut short by two months, whether it still meets the definition of a randomized controlled trial. Dr. Juurlink testified that it does, and that it is common for randomized controlled trials to have pre-specified rules that led investigators to stop the study. A randomized controlled trial can be stipulated to run for a certain period of time, but it may become apparent at an earlier stage that patients are becoming unduly harmed. In that case, investigators would not want to force the study for the full duration if it meant people would be harmed. The goal is not simply preventing infection but preventing serious infection. Dr. Juurlink testified that it is one thing to have COVID-19, but it is another thing to be hospitalized by COVID-19 or to die from it.

In cross-examination, the Member's Counsel put to Dr. Juurlink that there was data demonstrating that individuals who were testing positive for COVID-19 in 2021 tended disproportionately to be people who were fully vaccinated or who had obtained booster vaccines. Dr. Juurlink did not agree, stating this view indicates a very superficial interpretation of the data. When asked about the value of real-world data as opposed to clinical trials to help evaluate these claims, Dr. Juurlink testified that real world numbers matter. Data has demonstrated that countries that rolled out vaccine quickly saw fewer deaths from COVID-19 and all-cause mortality then countries that did not. If it were the case that widespread vaccination was associated with increased risk of mortality then countries rolling out vaccines quickly and with good degree of population penetration, would have high mortality than countries that did not. Dr. Juurlink testified that this is not what we saw.

"The COVID-19 vaccine may alter your DNA, genes, cells…"

Dr. Juurlink testified that this statement contains inaccurate, false and/or misleading information. As set out above, Dr. Juurlink testified that vaccines do not enter the nucleus of the cell and therefore do not alter human DNA or genes. He testified that it is not uncommon for people to react to a vaccine, which by definition involves cellular changes, so that part of the statement has some truth. But the assertion that the COVID-19 vaccine alters DNA and genes is false.

"Vaccines can sterilize men and their unborn children."

Dr. Juurlink testified that this statement contains inaccurate, false and/or misleading information. Dr. Juurlink testified that even if it were the case that vaccination could somehow influence sterility, the Member would have no basis on which to make the claim given that the COVID-19 vaccine had not been in widespread use. There had been no study on the issue at the time the Member made her statement, and notwithstanding that, sterility would only become apparent once the offspring themselves were old enough to produce children.

"COVID-19 can be treated with Vitamin D, C, zinc and other 'safe' medicines…"

Dr. Juurlink testified that this statement contains inaccurate, false and/or misleading information. Dr. Juurlink testified that the best way to determine whether such medicinal interventions against COVID-19 are effective would be to conduct a randomized controlled trial. Dr. Juurlink provided the Panel with several randomized controlled trials that prove that Vitamin D, Vitamin C and zinc are not effective against COVID-19, and nor do they prevent or favourably influence the disease course of COVID-19.

"…measures such as quarantining, masks and vaccines are not necessary."

Dr. Juurlink testified that this statement contains inaccurate, false and/or misleading information. Dr. Juurlink explained that quarantining was an important strategy at the beginning of the pandemic because hospitals were overwhelmed. Without quarantining of any kind, COVID-19 would have spread more rapidly which would have directly affected the number of people needing hospitalization.

Dr. Juurlink testified that masks are controversial, and the utility of masks depends on a variety of factors including the type of mask, the prevalence of the virus, and the degree of ventilation in indoor spaces. In Dr. Juurlink's opinion, vaccines and quarantining were probably more effective in preventing the spread of COVID-19 than masking, but nevertheless, masking certainly had a role to play in mitigation efforts.

Dr. Juurlink testified to a review by Kim et al. (2022) comparing the effectiveness of various types of masks as protection against respiratory viral infections, including COVID-19. The chief findings were that higher quality masks such as N95 masks were associated with a reduced risk

of infection of COVID-19, whereas medical or surgical masks were associated with a nonsignificant protective effect.

Statement #9

On December 8, 2020, the Member posted a link to a video in relation to the COVID-19 pandemic titled, “Cancer laced va$$ines” which included the following statements italicized below. Dr. Juurlink responded to several of the questions included in this video. Some of his testimony is set out below.

> *"Some of the vaccines that contain MRC-5 cell line are the MMR (measles-mumps-rubella), theravax, chicken pox, Hepatitis A & B, Twinrix, and polio vax"…*

Dr. Juurlink testified that the statement was inaccurate, false, and/or misleading. He expressed concern about the use of the term "contain," clarifying that while a cell line may assist in the production of a vaccine, this does not mean that the cell line is present in the final vaccine product.

On cross-examination, it was put to Dr. Juurlink that the speaker in the video did not refer to MRC-5 being present in mRNA Covid-19 vaccines. While Dr. Juurlink agreed that the speaker did not explicitly say this, he testified that it is important to consider the broader context. The speaker indicated that this vaccine should be considered defective and potentially dangerous for human health, and while the speaker did not explicitly identify the COVID-19 vaccines, Dr. Juurlink opined that many people would infer that the speaker was referring to one or more of the COVID-19 vaccines.

> *"The human genome is being rewritten by scientists."*

Dr. Juurlink testified that the entire statement was inaccurate. Dr. Juurlink testified that you cannot rewrite the human genome. It is possible to do gene editing for certain kind of diseases, but you cannot rewrite the human genome with these vaccines.

> *"This is basically injecting cancer into your body…"*

Dr. Juurlink testified that this statement is false. Dr. Juurlink testified that there is no carcinogen in the vaccines and therefore it is not true to say that receiving vaccines is akin to having cancer injected into your body. There is no evidence that vaccines are carcinogenic.

> *"Vaccines are bioweapons…"*

Dr. Juurlink testified that this statement is false. Dr. Juurlink testified that bioweapons are either microorganisms (such as viruses or bacteria) or toxic substances produced by organisms (such as anthrax or botulinum toxin) that are released deliberately with the intent of causing

disease or death in man or animals. Dr. Juurlink testified that the goal of vaccination, in contrast, is the reduction of the burden of disease, which the COVID-19 vaccines have very clearly been shown to do. Bioweapons cause disease whereas vaccines prevent disease.

> *"You'll see an unusually high incidence of MS in nurses because nurses are given the vaccines."*

Dr. Juurlink testified that this statement is false and lacked supporting scientific evidence. Dr. Juurlink testified that a link between vaccines and multiple sclerosis ("MS") has been hypothesized previously for different vaccines, and at the time the Member made the claim there was no evidence that any vaccines increase the risk of MS. Dr. Juurlink testified that MS is linked to an Epstein-Barr viral infection and not to vaccines.

> *"Why would you inject cancer-laced vaccines into yourself, into your friends, into your family, don't do it."*

Dr. Juurlink testified that the entire statement was false. Dr. Juurlink testified the vaccines do not contain cancer and to attempt to discourage vaccination on the grounds that the vaccines contain cancer is misinformation.

> *"This vaccine should be considered defective and potentially dangerous for human health, and in particular the pediatric population, who is much more vulnerable to genetic and autoimmune damage to the immaturity of the repair systems."*

Dr. Juurlink testified that at the time this statement was made, Health Canada had evidence that demonstrated that the vaccine was sufficiently effective and safe to warrant its approval for administration to the population. When the Member shared this claim, she did not have access to the information as the vaccine was not in widespread use and it is not a claim one could make with any confidence. The vaccine does not cause genetic damage.

Dr. Juurlink testified that had the vaccines not been effective, they would not have been approved by Health Canada. Regarding the statement of vaccines being "potentially dangerous", Dr. Juurlink testified that any drug is potentially dangerous in the wrong patient. Notwithstanding the potential adverse effects outlined in the same response, the vaccines have clearly been shown to be a major boon to human health. Dr. Juurlink reviewed with the Panel a study that looks at expected mortality by country related to the timing of vaccination. The study concluded that the observed mortality after vaccination is generally a lot lower.

Statement #11:

On January 17, 2021, the Member posted a link on Facebook to a video of an interview between Alex Newman and Dr. Lee Merritt. The video included the italicized statements below.

Dr. Juurlink responded to several of the questions included in this video. Some of his testimony is set out below.

> *“We have "treatment that works extremely well" [for COVID-19], we have "treatment" [for COVID-19] and it "really does work".*

Dr. Juurlink testified that the statement above was false, and that its accuracy depends on what treatment is being referenced. For instance, if the statement was suggesting that hydroxychloroquine, ivermectin, vitamin D, vitamin C or zinc were effective treatments, then the statement would be inaccurate and false. This statement could cause harm by misleading the public.

> *"Dr. Merritt states that the biggest thing people can do to prevent hospitalization or serious consequences from COVID-19 is to ‘get their Vitamin D levels up, and that the sun doesn't do it.’”*

Dr. Juurlink testified that the statement was false. Dr. Juurlink was not aware of any randomized controlled trials which established that vitamin D supplementation prevents hospitalization from COVID-19.

On cross examination, Member’s Counsel challenged Dr. Juurlink on his contention that there are no reliable studies establishing that vitamin D contributes to positive outcomes for those infected with COVID-19. Dr. Juurlink clarified that the clear implication of the Member’s statement was that vitamin D supplementation prevents hospitalization or other serious consequences of COVID-19. For that statement to be true from a scientific perspective, it would need to be supported by a randomized controlled trial, which it was not. Dr. Juurlink testified that if people believe that vitamin D supplementation is beneficial for COVID-19 infections and if their belief is based on animal studies, case reports, or association studies, that opinion is not equivalent to those based on evidence from randomized controlled trials.

> *With viruses like COVID-19 "[w]e pretty much have a treatment which is the hydroxychloroquine and ivermectin."*

Dr. Juurlink testified that the statement was false. Dr. Juurlink testified that while these are treatments that some people have taken for COVID-19, they do not influence the course of disease. Dr. Juurlink testified that hydroxychloroquine modulates the immune responses and can be quite beneficial for patients with rheumatoid arthritis and lupus. Dr. Juurlink testified that there have been randomized controlled trials of hydroxychloroquine as a preventative therapy to prevent the progression of COVID-19. In a randomized controlled trial of 821 asymptomatic people exposed to COVID-19, hydroxychloroquine treatment did not lower the risk of infection. In a randomized controlled trial of 491 outpatients with early stages of COVID-19, hydroxychloroquine did not significantly reduce symptom severity.

With respect to ivermectin, Dr. Juurlink testified that he was not aware of any randomized controlled trials establishing that ivermectin improved outcomes for patients with COVID-19 or prevented infection in the first place. In a large, randomized trial of 3,515 patients, early treatment with ivermectin did not reduce the need for hospitalization related to COVID-19. In another study of 490 patients with mild to moderate COVID-19 at high risk of deterioration, treatment with five days of ivermectin early in the course of illness did not prevent progression to severe disease.

> *"By using NAC, vitamin C, vitamin D, zinc, selenium, and quercetin, individuals can improve their immune response, and own ability to fight off COVID-19 and not get 'terribly sick'."*

Dr. Juurlink testified that the statement is false and misleading. As set out above regarding vitamin D supplementation, Dr. Juurlink testified that this statement is not based on evidence from randomized controlled trials.

General opinion evidence

College Counsel asked Dr. Juurlink to provide his expert opinion on the accuracy and veracity of the information contained in the statements shared by the Member as a whole. In Dr. Juurlink's view, the information contained in the statements at issue in this proceeding was largely untrue. Dr. Juurlink explained that these statements misinform the public based on little or no science, and if people acted on these opinions, it could cause a great deal of harm.

Dr. Juurlink reviewed Dr. Bridle's report and responded to it in his oral evidence. The Panel only considered this testimony as it pertained to areas in which Dr. Bridle was qualified as an expert. Dr. Juurlink took issue with several of Dr. Bridle's views. For example, Dr. Bridle opined in his report that COVID-19 vaccines are more dangerous to people with pre-existing immunity, writing "a concern with recommending vaccination of those that already have naturally acquired immunity against SARS-CoV-2 is that there is evidence that adverse events caused by COVID-19 inoculations are more common and more severe in people with pre-existing immunity".

Dr. Juurlink reviewed graphs from the articles referenced by Dr. Bridle. Dr. Juurlink agreed that previous infection is associated with more adverse effects after vaccination, but these are generally minor and transient. To frame the vaccines as "more dangerous" on this basis is highly misleading, since not all adverse events are created equal. Most adverse events are mild and transient (e.g. headache, chills, muscle pain), rather than "dangerous". Dr. Juurlink opined that the expected benefits of the vaccine still outweighed the potential harm.

Dr. Bridle also opined about the long-term safety of the COVID-19 vaccine, writing "an additional concern that I have about the current COVID-19 'vaccines' includes the potential for long-term neurological harms." Dr. Juurlink testified we had not seen any evidence of the harm

Dr. Bridle described, and that Dr. Bridle's concern was completely speculative. Generally, Dr. Juurlink's view was that Dr. Bridle report was based on insufficient or poor-quality evidence and many claims made in his report constitute random speculation.

Dr. Juurlink also reviewed Dr. Pelech's report disagreeing with several of Dr. Pelech's opinions, testifying that Dr. Pelech made statements in his report that were uninformative, misunderstood the evidence, used evidence from questionable sources or based his opinion on anecdotes rather than solid evidence gained from randomized controlled trials.

Witness #4 – Maureen Cava ("Ms. Cava")

Ms. Cava is a Registered Nurse and has been a member of the College since 1977. Ms. Cava completed her Bachelor of Science in Nursing in 1977 and a master's degree in nursing in 1990. Ms. Cava has approximately 30 years of experience in leadership roles at Toronto Public Health and North York Public Health including during the SARS and H1N1 influenza outbreaks.

Member's Counsel did not cross-examine Ms. Cava on her qualifications or object to her qualification as an expert

The Panel qualified Ms. Cava as an expert in the standards of practice of nursing, including public health nursing, and a nurse's accountabilities when communicating with the public.

The Panel recognized Ms. Cava as an expert due to her extensive background in nursing, comprehensive knowledge of standards of the profession, and specialized competence in Public Health Nursing. Her academic credentials, professional appointments, and demonstrated practical experience in applying public health principles attest to her thorough understanding of regulatory requirements and population health practices, thereby substantiating her qualification as an authority in these domains.

Ms. Cava testified about the professional obligations and accountabilities of nurses when making public statements on social media. This includes compliance with public health directives, the impact it may have on the profession as well as the public confidence in nurses. In Ms. Cava's expert opinion, once an individual identifies themselves as a nurse on social media, professional standards including the *Code of Conduct* are engaged, regardless of whether they are providing patient care or are employed in nursing. Ms. Cava testified that these obligations were set out on the College's website as well as numerous other national and international nursing sites, which were readily available to the Member.

Ms. Cava explained that the public trusts the information provided by nurses and would assume the information provided is accurate and in the public interest, based on the expertise and knowledge that nurses have. Ms. Cava testified that nurses who disseminate public health information have an obligation to recognize the limits of their own knowledge and expertise and should refrain from disseminating information that is outside their scope. Nurses must ensure that the information they share is evidence-based, e.g. from reputable randomized

controlled trials published in peer reviewed journals, or from organizations such as the World Health Organization based on panels of scientific experts. By posting information on social media, regardless of whether the nurse created the content or it was developed by others, the nurse is implicitly endorsing it. Accordingly, regardless of its origin or intention behind the post, the same obligations of public trust and accountability apply. In particular, the information shared needs to be accurate and truthful.

In Ms. Cava's view, a nurse abuses their position of trust and puts the public at risk when they disseminate information which is inaccurate, false and/or misleading, not grounded in peer-reviewed scientific literature, or breaches the guidance disseminated by the relevant public health authorities.

Ms. Cava testified that the Member's conduct contravened several standards of the profession, including the *Code of Conduct* and the *Professional Standards*. Since the Member did not have knowledge or expertise about public health practice, the Member's conduct breached principle 3.4 of the *Code of Conduct* as she failed to work within her knowledge, skill, judgement and legal scope of practice. Principle 3.7 of the *Code of Conduct* requires nurses to use accurate sources of information to inform their practice. Ms. Cava testified that the Member repeatedly posted inaccurate and unreliable information, outside of her expertise and experience. The Member's conduct also engaged in principle 6.1 of the *Code of Conduct*, as Ms. Cava testified that the Member has not taken accountability for her actions and the decisions she has made. Public confidence has been undermined because of her actions.

Ms. Cava also described the relevant *Professional Standards*. In particular, the *Ethics* Standard states that nurses must provide information to allow people to make informed decisions. During the COVID-19 pandemic, nurses worked extremely hard to ensure clear messaging. Misinformation posts such as those shared by the Member confuse the public and can have consequences for individuals and for the health care system. The public may conduct their own research based on social media posts but without the knowledge or expertise to understand or evaluate it, their actions could compromise public health efforts to contain the COVID-19 pandemic.

Regarding the *Professional Standards* and the *Ethics* Standard, Ms. Cava testified that the Member failed to follow established public health evidence and did not abide by the guidance of medical and scientific experts. The Member communicated information to the public that was inconsistent with nursing practice and the standards set by the College. As the pandemic progressed, emerging scientific evidence clarified best practices for COVID-19 response. Initially, evidence was limited; however, as understanding grew through scientific advancements, it became apparent how COVID-19 impacted individuals. Ms. Cava further testified that the Member violated these standards by lacking sufficient knowledge or expertise, asserting that members of the profession should refrain from providing information to the public without first acquiring the most current evidence and knowledge pertinent to areas outside their expertise.

Finally, Ms. Cava testified that members of the profession would regard the Member's conduct as disgraceful, dishonourable and unprofessional.

In cross-examination, Ms. Cava was asked where it was written that the *Professional Standards* and *Code of Conduct* apply outside the therapeutic nurse-client relationship. Ms. Cava testified that it is not written explicitly but if a nurse is speaking and calling herself a nurse, then all the professional obligations stand.

Member's Counsel suggested that the focus of the *Professional Standards* and the *Code of Conduct* is on the therapeutic relationship between a nurse and client and that the Member was not providing health care services when she made her posts. Ms. Cava testified that nurses, once they identify themselves as such, do not need to be working directly with a client to adhere to the obligation to maintain public trust and conduct themselves according to the *Professional Standards* and the *Code of Conduct*. Further, the "client" in the public health context has a broader meaning and that any health information or material shared with the public is being received by the public as health care. If a nurse does not have the knowledge, skills and judgement in this area of health care, they must not pass on information.

With respect to a nurse's obligation when there is conflicting evidence in research, Ms. Cava testified that nurses should consult the best available evidence from reliable organizations or individuals with relevant experience, knowledge and expertise.

The Member's Witnesses

Witness #5 – Dr. Steven Pelech ("Dr. Pelech")

Dr. Pelech has a doctorate degree in biochemistry and is a professor of neurology in the Department of Medicine at the University of British Columbia. His research focuses on how protein-serine kinases are involved in cellular signal transduction and he has published widely on this topic. Dr. Pelech is the founder of Kinexus Bioinformatics, which created a test to detect antibodies within the immune system. Dr. Pelech is the founder and vice-president of Canadian COVID Care Alliance Organization. Dr. Pelech has an active membership in scholarly societies including but not limited to the Canadian Society for Biochemistry and Molecular Biology. Dr. Pelech is Chair of the Scientific and Medical Advisory Panel of the Canadian COVID Care Alliance and was also a former member of the Canadians for Health Research. Dr. Pelech has participated in media interviews on numerous topics some of which include the COVID-19 pandemic, COVID-19 vaccinations, vaccine mandates and public health measures.

The Member requested that Dr. Pelech be qualified as an expert in: 1) the immunological response of individuals to COVID-19; 2) the research on interventions relating to the COVID-19 disease; 3) the methods for detecting the SARS-CoV-2 virus; and, 4) the safety and efficacy of mRNA COVID-19 vaccines. The College objected to Dr. Pelech's qualification as an expert and

took issue with his ability to provide independent and impartial evidence. Dr. Pelech was cross-examined on his qualifications.

The Panel concluded that Dr. Pelech did not meet the threshold to be qualified as an expert in some of the areas proposed by the Member.

The Panel qualified Dr. Pelech as an expert on the immunological response of individuals to COVID-19. Dr. Pelech has a doctorate degree in biochemistry with over 25 years of teaching experience and cellular research, particularly regarding immune cell signaling and how protein kinases transform normal cells to cancerous cells. His company has also developed antibodies that respond to cancer causing protein kinases, knowledge that has been used in research relating to immunity.

The Panel also qualified Dr. Pelech as an expert in methods for detecting the SARS-CoV-2 virus but only as it applies to the use of serological testing. In the early days of COVID-19, his lab used serological testing, to identify the SARS-CoV-2 virus and antibodies the body made to combat COVID-19. The Panel accepted his education, training and research expertise related to detecting the SARS-CoV-2 virus using serological methods.

However, Dr. Pelech is not a medical doctor and has no relevant expertise in the practice of clinical immunology, pharmacology or infectious diseases. Dr. Pelech acknowledged that he did not treat any patients with COVID-19 during the pandemic, nor did he work in any formal capacity with the provincial government in British Columbia to advise on the pandemic or the province's public health response. Accordingly, the Panel did not qualify Dr. Pelech on the research on interventions relating to the COVID-19 disease or the safety and efficacy of COVID-19 mRNA vaccines.

Regarding the College's submission that Dr. Pelech's evidence may not be independent or impartial, the Panel determined this was irrelevant for the areas which the Panel declined to qualify Dr. Pelech. For the areas the Panel qualified Dr. Pelech, the Panel weighed the evidence accordingly against the concern related to independence or impartiality.

The Panel determined that Dr. Pelech was qualified in the specified areas, and any concerns regarding his impartiality were not substantial enough to disqualify him as an expert in those limited fields. The Panel will take any such concerns into account in its overall evaluation of his testimony.

Accordingly, the Panel qualified Dr. Pelech on the immunological response of individuals to COVID –19 and he testified extensively about antibodies, natural immunity, antigenic sin and the relationship of these concepts to the SARS-CoV-2 virus. The Member did not make statements on these topics. Dr. Pelech was also qualified to provide his expert opinion regarding methods for detecting the SARS-CoV-2 virus through serological testing. The Member's statements did not concern this type of testing. Dr. Pelech also testified about the public health response to COVID-19, including vaccination, booster vaccines, and the Omicron

variant of the virus but these topics were outside of the areas in which the Panel qualified Dr. Pelech as an expert. Accordingly, the Panel did not consider Dr. Pelch's testimony in these respects.

Dr. Pelech's testimony strayed into comparing natural immunity to vaccines. The College objected to this testimony, as Dr. Pelech was not qualified as an expert with respect to vaccines. Member's Counsel argued that it would be difficult to provide evidence on topics such as the immunological response to the SARS-CoV-2 virus without comparing it to other interventions, including natural immunity. Despite his extensive testimony on these topics, Dr. Pelech's evidence did not directly address the Member's statements.

In cross-examination, Dr. Pelech acknowledged that his report did not include his opinion on the Member's statements about PCR testing for COVID-19, COVID-19 vaccines and vaccine injury, and the efficacy of COVID-19 vaccines for youth.

In cross-examination, Dr. Pelech also accepted that the SARS-CoV-2 virus can cause the COVID-19 disease, that some individuals became very sick or died from COVID-19. Dr. Pelech also accepted that there was a global pandemic. When asked whether he believed that the entire pandemic was a hoax, Dr. Pelech testified that there was clearly a virus that was circulating and getting people sick.

Witness #6 – Dr. Byram W. Bridle ("Dr. Bridle")

Dr. Bridle has a doctorate in immunology and completed a post-doctoral fellowship in viral immunology. Dr. Bridle is an Associate Professor of viral immunology in the Department of Pathobiology at the University of Guelph. He teaches several graduate courses within the Veterinary Program. During the COVID-19 Pandemic, Dr. Bridle attempted to develop a viral vector vaccine to fight COVID-19. Dr. Bridle's research focuses on antiviral immune responses and vaccinology as they apply to infectious disease, cancers and autoimmune diseases. Dr. Bridle has published over 90 journal articles, including approximately 15 related to COVID-19. Dr. Bridle is a member of the Scientific and Medical Advisory Panel through the Canadian Covid Care Alliance. Dr. Bridle has participated in media interviews on topics relating to the COVID-19 Pandemic.

The Member's Counsel requested that the Panel qualify Dr. Bridle as an expert in: 1) the threat that COVID-19 poses; 2) the safety and efficacy of masks as an intervention against COVID-19; 3) the efficacy and reliability of RT-PCR tests; 4) the contents, safety and efficacy of COVID-19 vaccines; 5) the rationale (or lack thereof) behind public health advice and directives relating to the COVID-19 pandemic; 6) the efficacy of other interventions that are not currently endorsed by public health authorities including vitamin D, hydroxychloroquine, ivermectin; and, 7) the evaluation of scientific and medical research related to these topics. The College objected to Dr. Bridle's qualification as an expert due to concerns surrounding his education, experience, research background, impartiality and potential bias.

Dr. Bridle was cross-examined on his qualifications, and the Panel heard submissions on this issue from both parties. During cross-examination, College Counsel challenged and corrected Dr. Bridle's assertion that he had been qualified in 16 legal proceedings related to COVID-19. Dr. Bridle admitted to being unclear on how the courts qualify and accept experts. College Counsel submitted that Dr. Bridle does not have the ability to provide evidence that is independent, impartial and based on his own expertise.

When assessing Dr. Bridle's qualifications, the Panel applied the criteria set out in *Mohan*, *White Burgess* and *Dulong.* In doing so, the Panel concluded that Dr. Bridle did not meet the threshold to be qualified as an expert in all the areas proposed by the Member.

The Panel qualified Dr. Bridle as an expert on the contents, safety and efficacy of non-mRNA COVID-19 vaccines and the evaluation of scientific and medical research relating to such. While Dr. Bridle is not a medical doctor, he and his team worked during the pandemic to develop a viral vector COVID-19 vaccine, which is an area of research that would require expertise in immunology. The Panel did not qualify him to give expert evidence on mRNA-based COVID-19 vaccines as mRNA related vaccines was not his area of research.

The Panel also qualified Dr. Bridle on the efficacy and reliability of RT-PCR tests in the context of COVID-19 and the evaluation of scientific and medical research relating to such. Dr. Bridle used RT-PCR testing extensively in his research work at the University of Guelph. As a test based on scientific principles, the application, regardless of context, was considered by the Panel to be sufficient to quality Dr. Bridle as an expert in this area.

Dr. Bridle does not have any research or clinical background in treating or managing public health disease outbreaks. Accordingly, the Panel declined to qualify him as an expert on the threat posed by COVID-19 nor the rationale (or lack thereof) behind public health advice and directives relating to the COVID-19 pandemic. Dr. Bridle is not a medical doctor and therefore the Panel concluded that he was not qualified to give expert evidence on the efficacy of interventions that are not currently endorsed by public health including vitamin D, hydroxychloroquine, and ivermectin. While Dr. Bridle has used masks in his research lab, the Panel did not find that this qualified him to give expert evidence on the safety and efficacy of masks as an intervention during a global pandemic. On the matters the Panel did not qualify him, the Panel also found Dr. Bridle could not give expert evidence on the evaluation of scientific and medical research related to these topics.

College Counsel submitted that Dr. Bridle may have political views and a personal stake that would influence his opinion, making it biased and prejudicial. Despite College Counsel's submissions relating to Dr. Bridle's alleged biased political and personal views, the Panel was satisfied that his opinion evidence on the specific areas that he was qualified in by the Panel would be fair and its objectivity or non-partisan components would be weighed in the Panel's assessment of that evidence.

Dr. Bridle testified extensively about the definition of an ideal vaccine, referencing the Canadian Immunization Guide, the precautionary principle (simplified as 'first, do no harm'), original antigenic sin and his views on the benefits and superiority of natural immunity. Dr. Bridle also alleged that Dr. Juurlink's report contained misinformation, stating at length that people accused of spreading alleged misinformation are censored or "cancelled".

Dr. Bridle testified about the Member's statements concerning RT-PCR testing. Dr. Bridle testified that RT-PCR tests are used as a diagnostic tool and do not determine an individual's infectiousness or disease state. In this respect, Dr. Bridle's testimony was consistent with Dr. Mazzulli's. Dr. Bridle testified that a positive test result after only a few cycles of testing indicates a greater amount of viral material in the sample. Viral samples with a low amount of genetic material will require more cycles of the RT-PCR test as it takes more cycles to amplify the small amount of genetic material. Dr. Bridle testified that he agreed with 90% of Dr. Mazzulli's expert report but disagreed with his opinion on the number of Cts required to elicit a positive or negative result.

Statement #3

> *"The RT-PCR test being used for COVID involves a cycling function. The more you cycle the test material in the lab, the more people test positive for COVID. If you cycle the test material 60 times, no one test positive. If you cycle it 30 times, some test positive and some don't. This means all our corrupt governments have full control of how many people test positive, depending on how many times they insist the test materials be cycled…"*

Dr. Bridle testified that most of this statement is true. Dr. Bridle testified that he would not opine on the part of the statement that pertains to "corrupt government" and indicated that he had concerns with this. Dr. Bridle testified that there was no unified protocol for RT-PCR tests, which means that there may be variability in testing technique but that this does not mean the accuracy of the tests differs. Through coordination, a specific standard of practice could be achieved. Dr. Bridle testified that governments should step in when it comes to how RT-PCR tests are handled and calibrated.

> *"They've picked this test purposely so they can up-regulate or down-regulate the pandemic at will…"*

Dr. Bridle agreed with Dr. Mazzulli's view that this statement is false; he testified that the RT-PCR test was chosen because it is the most sensitive test to determine if there is a potential pathogen present. Dr. Bridle further testified that RT-PCR tests can detect the lowest concentrations of viruses present in a sample. Accordingly, the RT-PCR test is considered a gold standard molecular virology assay.

With respect to COVID-19 vaccinations, Dr. Bridle testified that the whole purpose of a vaccine is to prevent disease. From the beginning of the pandemic, the goal was to never dampen the

severity of disease but to achieve heard immunity. Dr. Bridle explained the different levels of authorization for COVID-19 vaccines by Health Canada and testified that all the vaccines approved by interim order were experimental in nature, if not in official designation, due to the ongoing studies and ongoing data collection. In Dr. Bridle's view, it is therefore legitimate to question the safety of these vaccines. Dr. Bridle opined that Dr. McKeown underestimated this process by conflating it with post-market surveillance, which it was not.

Dr. Bridle testified that never in the history of mankind has a vaccine been released for public use so quickly. The Ebola vaccine took just over four years to be administered to the public, and this was a record at the time. The COVID-19 vaccines were released to the public in just under one year. In Dr. Bridle's view, studying a vaccine for many years results in more confidence in its safety and efficacy or lack thereof. Dr. Bridle testified to the mechanism of the AstraZeneca vaccine, including that it was determined to be less effective than the mRNA vaccine as well as associated with blood clots.

Dr. Bridle testified that no medical intervention is ever 100% safe. Rather, the goal is to gain a sufficiently high safety profile to offset the risk associated with the disease. The concept of 'harm' depends on the demographic and the nature of the vaccine. Dr. Bridle testified that active monitoring is essential to ensure harm is identified and avoided, and that there must be a proper control group.

Statement #8

> *"Vaccines can sterilize men, women and even their unborn children…"*

In his examination in chief, Dr. Bridle was asked to discuss the effect of the COVID-19 vaccine on fertility and healthy fetal development. Dr. Bridle testified that there are concerns with both issues. We have no long-term data on babies born to women who were vaccinated while pregnant, but Dr. Bridle opined that the ovaries are affected by the COVID-19 vaccine and the vaccine is known to often cause fatigue, headache and fever, all signs of a systemic immune response. Dr. Bridle opined that even small systemic responses can be harmful to a developing fetus, the impact of which may not manifest until later in life. To assess the impact of vaccines on a developing fetus, data should be examined over a number of years as the child grows and develops.

The Panel reviewed Exhibit #46, which included Dr. Bridle's literature review on COVID-19 vaccines and their potential effects in pregnant women, focusing on fetal and neonatal development. Dr. Bridle stated that all vaccines are pro-inflammatory and advised caution for pregnant women considering vaccination, suggesting that possible harm could outweigh the benefits. Furthermore, Dr. Bridle testified that conclusions about the safety of these vaccines for pregnant women cannot be drawn until the children born to vaccinated mothers reach adolescence.

Statement # 9

> *"I keep getting asked about this video so here it is again ... ingredients include MRC-5 which is aborted fetal tissue[emoji] ... please always make sure to do your own research my friends[emoji]".*
>
> *"MRC-5 cell line contains aborted human fetal tissue from the 1960s" …*

Dr. Bridle confirmed that while he was familiar with human fetal cells, he does not work in a lab that makes vaccines. He explained that the AstraZeneca vaccine is a viral vector vaccine and it does not contain MRC-5. When asked whether the MRC-5 cell line contains aborted human fetal tissue from the 1960s, Dr. Bridle testified that he does not disagree with the statement in isolation.

Dr. Bridle was cross-examined about the effects of a vaccine in reducing the incidence of disease and death. Dr. Bridle testified that if a vaccine genuinely reduced disease, it would be good for those impacted or infected with the disease, but if the vaccine did not improve immunity, we could potentiate the emergence of variants. It is important to balance the impact of using vaccines that may not be ideal. Dr. Bridle agreed with College Counsel that using vaccines generally to reduce death and hospitalization is a good objective and is a reason why subpar vaccines need to be used with caution as the desired goal may not be reached.

Witness #7 – The Member

The Member testified that she has suffered from extensive trauma and addiction. When the Member started the Registered Practical Nurse Program at Humber College in 2002, she felt that "nursing saved [her] life". The Member explained that helping others gave her value and that she identifies as a humanitarian. The Member testified to her own personal health struggles and how she started to take a holistic approach to healing.

The Member testified that the public health mandates during the pandemic were "not right", that it was "shutting down the economy and putting everyone at risk; it didn't make sense at all". The Member explained that she developed her Facebook page and other social media pages for Nurses against Lockdowns to "unite nurses, to educate the public and bring ethics back to health care".

In her evidence in chief, the Member reviewed the *Code of Conduct* and testified that she understood it. The Member believes that her conduct complied with all the principles set out in the *Code of Conduct,* and in particular, principles 3.2, 3.7, 3.9, 4.1, 6.0 and 6.1. The Member testified that the dominant knowledge of the COVID-19 pandemic was incorrect, and she felt that it was her duty as a nurse to share information with the public. The Member felt that nurses were being "robbed" of critical thinking and "coerced into behaving a certain way". She explained that the pandemic was a novel situation, and that not enough research was being done. The Member believed that it was the public's right to hear from nurses who thought

differently. The Member testified that if nurses are unable to think critically, patient care would deteriorate and cause the public to lose trust in the profession. In the Member's view, speaking out against the public health responses to the pandemic and encouraging nurses to join together would develop and foster the public's confidence in the nursing profession.

With respect to the principles in the *Code of Conduct* on professional obligations towards nursing colleagues, the Member denied acting in a disrespectful manner and further maintained that she acted through supportive means by responding to messages that were seeking guidance and hope.

The Member testified that she knew what the professional standards expected of nurses, and she felt that she did not breach any of them. The Member further testified that she was being accountable and did not break any laws.

The Member testified about Exhibit DD which is a document from the College entitled "Nurses Supporting Public Health Measures" (2020). The Member testified that the document "makes no sense" and that it "tries to shut down anybody that went against the narrative".

The Member was also asked about her professional accountability to support decisions with respect to public health measures. The Member explained that in ordinary circumstances, it is important to follow public health directives to keep patients and the public safe. The Member testified that in her role as a nurse she would be accountable to do so; however, the Member testified that the public health measures in response to the COVID-19 pandemic were harmful.

The Member testified to her understanding of the *Professional Standards,* including the knowledge indicators. The Member testified that her social media posts and public statements met these indicators because she provided evidence-based rationale for all posts. The Member explained that PHO mandated the administration of COVID-19 vaccines; however, it was a novel vaccine, and, in the Member's view, the available research demonstrated harmful side effects from the vaccine.

The Member testified that she did not feel accountable to the College but rather was accountable to the patient, the public and her workplace providing they were not abusing the residents. Regarding the leadership indicator, the Member explained that by speaking out, she role-modelled professional values, beliefs and attributes. The Member testified that no matter what the consequences, nurses must do what is right by patients and the public.

<u>Member's evidence regarding her social media posts</u>

The Member testified about each of the statements she posted, explaining that she did not find any of them to be problematic. The Member testified to her rationale for making each statement, which was generally to provide the public with enough information to make informed decisions about their health.

The Member testified that there were misrepresented facts about COVID-19 during the pandemic which led to public hysteria. The Member explained that she completed her own research prior to posting each statement but claimed that posting a statement does not mean that she endorsed it. The Member testified that the public should also do their own research based on her posts to inform their decisions. However, during both her examination in chief and cross-examination, the Member was unable to recall or identify any peer-reviewed research articles she researched to substantiate her social media posts. She testified that in determining what to post, she read books, spoke to professionals and "people sent her stuff". The Member also testified that she referred to content from various organizations such as American Frontline Doctors and Cancer.org. The Member testified that she also did Google searches as background research on the various videos and statements she posted. The Member frequently pointed to her own personal experiences, including her views that she was censored by the College. The Member testified that she did not have any regrets about sharing her social media posts and said that she is a very rational individual who wanted to ensure members of the public were not harmed by misinformation.

In cross-examination, the Member again acknowledged and agreed to the nursing accountabilities set out in the practice standards. The Member acknowledged that the College's mandate is to protect the public and to uphold the public interest. The Member agreed that the College sets standards and guidelines for the profession and that she was obligated to comply with these, including the *Code of Conduct*, the *Professional Standards* and the *Ethics* Standard. College Counsel reviewed the *Code of Conduct* with the Member. The Member acknowledged that while the College's practice standards do not apply to all aspects of a nurse's private life, when a nurse communicates with the public as a nurse, their professional position and credentials are invoked, and they are therefore accountable to the College and to the public.

College Counsel directed the Member to the CNO standards and Code of Conduct (Exhibit #2) in addition to the available information the CNO website regarding the use of social media, and general public health and COVID-19 resources. The Member agreed that these were available to her at the time of her posts at issue in this proceeding. The Member disagreed that she had a professional responsibility to abstain from publicly communicating anti-vaccination, anti-masking and anti-distancing statements that contradicted the available scientific evidence, explaining that the lack of competing information impacts the public's ability to provide informed consent.

Further in cross-examination, the Member acknowledged that public health and infectious disease experts are more qualified to speak about pandemic-related topics then she was, as a nurse who has a limited scope of practice. The Member acknowledged she was aware of the role, mandate and authority of PHO and the Ontario COVID-19 Science Advisory Table group during the pandemic. The Member testified that she chose not to access information from PHO and the Science Advisory Table website because the public heard enough from these groups. The Member testified that she had no reason to doubt that Health Canada and PHO carried out their duties in good faith; however, during the pandemic, they did not do what they should

have been doing. Despite having referred in a blog post to PHO and the government as corrupt "gangsters" and "psychopaths", the Member admitted in cross-examination that she had no evidence to support these comments. The Member nevertheless insisted that she was being censored by the College. College Counsel reminded the Member that the allegations she faced did not involve her activities with her long-term care employer nor did the College take issue with all the statements she made or posted on social media.

With respect to her work with Nurses against Lock Downs and Canada Front Line Nurses, the Member testified to her use of hashtags and that she chooses to identify herself as a nurse in these social media posts to unite nurses together, and to strengthen the trust the public would have in her posts and advocacy work. The Member testified that she wanted her posts to reach as many followers as possible and that identifying herself as a nurse would give the posts added credibility.

In cross-examination, the Member was unable to provide any evidence or research which supported the statements she posted on social media. She continued to endorse these statements throughout her cross-examination, insisting that she wanted to ensure that the public had all the information to support their autonomy and informed decision making. When the Member was confronted with independent reviewers from her social media posts who determined that all or part of her posts constituted misinformation, the Member testified that anyone who spoke against "the narrative" would be censored and cancelled.

The Panel also noted several items which were marked for identification and not as exhibits and as a result, did not form any part of the Panel's decision.

Reply

The College did not call any evidence in reply.

Motions

In the course of these proceedings, the Member brought the following four motions. In each instance, both College Counsel and the Member's Counsel made submissions. The Panel also sought advice from its Independent Legal Counsel ("ILC").

Motion #1 (June 2023): Hearing Adjournment Request for 30 days

The Member requested an adjournment of 30 days to make alternative arrangements to finance her defence. The Member tendered an affidavit sworn June 29, 2023, indicating that financial support for her case was ending and she was at risk of being unable to continue the case without legal counsel. College Counsel directed the Panel to *The Law Society of Upper Canada v. Igbinosun*, 2009 ONCA 48 and submitted that the Panel must consider procedural fairness and that the Member's Counsel is professionally obligated to continue representing the Member regardless of the status of his legal fees. After hearing submissions from College

Counsel and ILC, the Panel granted the motion. The Panel recognized that this hearing involves complex issues of evidence and law and to deny this motion would create serious prejudice for the Member and her ability to have a fair hearing. The Panel concluded that the adjournment period of 30 days was minimally prejudicial to the College, and that there was no evidence of any risk to the public interest by a brief adjournment.

Motion #2: (February 2024): Request for Written Reasons of Qualifications on Member's Expert

The Member requested that the Panel provide written reasons related to its decisions to only partially qualify Dr. Pelech and Dr. Bridle as expert witnesses, prior to concluding the evidence on the allegations. The Member's Counsel submitted that the Panel's decision to qualify them as experts in certain areas and not in others would have a profound effect on the Member's ability to defend herself and would offend the duty of procedural fairness. The Member's Counsel directed the Panel to *R. v. Woodard*, 2009 MBCA 42 and *R. v. Atwima*, 2022 ONCA 268.

In response to the Member's request, College Counsel provided the Panel with *R. v. Tsekouras*, 2017 ONCA 290 and submitted that providing written reasons prior to concluding the evidence would only further delay this discipline hearing.

ILC advised the Panel that pursuant to section 16.1(3) of the *Statutory Powers Procedure Act* ("*SPPA*"), an interim decision or order need not to be accompanied by reasons. ILC directed the Panel to sections 17 (1) and 54 under the *SPPA* and *R. v. Tsekouras*, *supra*, *R. v. Barret*, [1995] 1 S.C.R. 752, *R. v. Bakal*, 2021 ONCA 584 and *Lerew v. St. Lawrence College of Applied Arts and Technology*, 2005 CanLII 11798. ILC advised the Panel that there is no statutory requirement to provide written reasons for interim decisions; however, the Panel must exercise its discretion in this regard to ensure hearing fairness for the College, the Member and the public.

After considering the submissions of the parties and ILC's advice, the Panel denied this motion. The Panel noted the importance of procedural fairness. The Panel also reviewed the relevant sections of the *SPPA,* recognizing there was no statutory requirement to provide written reasons for evidentiary rulings. The Panel was also concerned that providing written reasons would substantially delay the hearing which would prejudice the College, the Member and the public in receiving a fair hearing. The Panel therefore denied the motion, electing to defer its reasons concerning the qualification of the Member's experts until providing the written decision for the liability phase of the discipline hearing.

Motion #3 (May 2024): Request to Admit Evidence of Peer-Reviewed Scientific Articles

The Member brought a motion to admit scientific evidence / peer reviewed articles either via: (1) a Panel Appointed Expert, (2) judicial notice of peer reviewed articles, (3) the tendering of other experts, or (4) summons of the authors of the articles.

The Member's Counsel submitted that this case is not about litigating the existing science but determining whether the statements were false, inaccurate and misleading and that the allegations cannot stand if there are published peer-reviewed journal articles supporting the Member's statements. The Member's Counsel submitted that the Member is seeking to admit over 250 new articles that are set out in schedules A and B which were published after the Member tendered her expert reports but which are relevant to the determination of whether the statements she made were inaccurate, false or misleading. The Member's Counsel pointed to numerous other authorities, including the *Rules of Civil Procedure,* which supports the right of all parties in litigation to tender evidence on all material points.

The College opposed the motion, submitting that the avenues proposed by the Member were either unprecedented, did not reflect the case law or were impractical. In this regard, College Counsel relied upon case law including *Law Society of Ontario v. Guiste*, 2021 ONLSTH 147, *Doucet v. The Royal Winnipeg Ballet (The Royal Winnipeg Ballet School)*, 2018 ONSC 2028 and *Deemar v. College of Veterinarians (Ontario)*, 2008 ONCA 600. College Counsel provided submissions to the Panel on procedural fairness, evidentiary issues on inadmissibility and prejudice to the College.

ILC advised the Panel that while it was a fundamental principle for it to hear relevant and admissible evidence from the parties, there were restrictions on the admission of evidence. Sections 42 and 49 of the *Health Professions Procedural Code* ("the *Code*") provide the parties with a timeline to submit expert evidence to each party to ensure hearing fairness. A failure to do so means that the evidence is presumptively inadmissible, subject to the Panel's discretion to admit such evidence in certain circumstances.

ILC advised that scientific articles do not stand independently as evidence but rather are introduced by a qualified expert to support them with an expert opinion. Articles can also be used to cross examine opposing expert witnesses. ILC further submitted that articles must be adopted by the experts. Articles themselves do not form evidence unless the expert adopts them. On the matter of the Panel appointing an expert to introduce articles, ILC advised that while rules governing civil matters may allow for this, as submitted by Member's Counsel, legislation governing the Discipline Committee does not provide discretion to appoint an expert.

The Panel reviewed the case law submitted by the Member and College Counsel. The Panel also reviewed the relevant sections under the *Code*, the *Nursing Act* and the *SPPA* and its mandated role within this Discipline Hearing.

With respect to (1), the Panel accepted the submissions that it is not within the Panel's statutory power or jurisdiction to order the appointment of an expert. Member's Counsel did not dispute this but suggested the Panel could consider rules governing civil matters. The Panel acknowledges that its authority is limited to what is granted by statute. The *Rules of Civil Procedure* are not applicable, and the Panel does not possess the inherent jurisdiction that

courts have. Unless the *SPPA* or *RHPA* expressly gives it a certain power, the Panel lacks the jurisdiction to make this order.

With respect to (2), the Panel concluded that the articles did not meet the criteria in which tribunals can take judicial notice as they are not so notorious or generally accepted as not to be the subject of debate among reasonable persons or capable of immediate and accurate demonstration by resort to readily accessible sources of indisputable accuracy.

With respect to (3), the Panel found that it was premature to seek approval for tendering another expert without first having a proposed expert report available. The Panel dismissed this request without prejudice to the Member being able to renew the motion for the relief sought in paragraph 2(c) of the Notice of Motion should the Member have a proposed expert witness and report for the Panel to consider whether to grant leave to permit such evidence.

With respect to (4), the Panel concluded that the time and cost to summon authors was disproportionate to ensuring a timely, fair hearing that was in the public interest.

Accordingly, the Panel dismissed this motion.

Motion #4 (July 2024): Leave to Call a Further Witness

The Member brought a further motion for request leave to call a new expert witness, Dr. D. J. Speicher. The Panel reviewed the motion material from May 2024 as well as associated submissions.

The College opposed this motion. College Counsel submitted that although the Panel has discretion, the evidence of the Member's proposed expert is inadmissible pursuant to section 42.1 (2) of the *Code*. College Counsel submitted that the College would be prejudiced in terms of significant further cost, and delays in hearing dates as the College has closed its case in chief. College Counsel submitted that the Panel is not obliged to accept late expert evidence, and that the Panel's overarching consideration is to ensure a fair, proportionate and expeditious hearing on this matter.

College Counsel directed the Panel to *Deemar v. College of Veterinarians* (Ontario), submitting that the case showed that denying further expert witnesses does not breach natural justice or procedural fairness. College Counsel submitted that the Member will not be prejudiced and denied a fair hearing if the Panel denies the motion.

College Counsel submitted that Dr. Speicher's evidence would have little probative value and that it was difficult to see how Dr. Speicher would be qualified in any area of relevance for which Dr. Bridle has not already been qualified in.

In reply, the Member's Counsel submitted that this is the Member's last effort to establish that there is evidence in peer-reviewed publications that support her statements. The Member's

Counsel submitted that the Member will be prejudiced if the papers are not adduced through Dr. Speicher.

ILC reviewed section 42.1(1) of the *Code* with the Panel, which addresses the disclosure of expert evidence. ILC advised the Panel about the purpose of the *Code* as well as the associated timing of evidence and its admissibility. ILC advised that the *Code* gives the Panel discretion to admit evidence that would otherwise be inadmissible under 42.1 (1) of the *Code* provided that the Panel takes the appropriate steps to ensure that the College is not prejudiced. ILC advised that the Panel should only grant leave if it is satisfied that the proposed evidence will be relevant and probative of an issue in the hearing.

The Panel denied this motion. The Panel recognizes the importance for a fair hearing for all parties involved, including the Member's interest in adducing expert evidence relevant to her statements at issue in this proceeding. The Panel closely examined Dr. Speicher's curriculum vitae ("CV") and the summary of proposed expert evidence. The Panel noted that there were similarities in Dr. Speicher's CV and the expert evidence already called by the Member and that his CV did not indicate additional expertise to opine on matters upon which Dr. Bridle and Dr. Pelech had not been qualified to give. The Panel determined it would be highly unlikely that Dr. Speicher would be qualified as an expert in all 200+ peer-reviewed scientific articles that the Member proposed. Accordingly, the probative value of the expert witness did not outweigh the prejudice to the College which would be caused by its late admission into evidence.

Final Submissions

The College's Submissions

College Counsel submitted that the allegations against the Member in this proceeding arose from public statements she made at the height of the COVID-19 pandemic. The Member used her nursing designation to spread misinformation, and to encourage non-compliance with public health orders. This case in its entirety is about what the Member said, reposted or endorsed in her statements. The public in turn read, viewed or saw these statements which came from a nurse.

In determining whether the Member's conduct in making the impugned statements constituted professional misconduct, the Panel must determine several legal and factual issues. The first issue is whether all, some or none of the statements contained information which the Member either knew or ought to have known was inaccurate, false or misleading in relation to the COVID-19 pandemic or encouraged non-compliance with public health orders at the time they were made. The second issue is whether this constituted professional misconduct by breaching the standards of practice of the profession or engaging in conduct that would reasonably be regarded as disgraceful, dishonourable or unprofessional.

College Counsel submitted that before making findings of professional misconduct, the Panel must also consider the *Charter*. In particular, the Panel must weigh the Member's right to freedom of expression with the College's statutory mandate to protect the public interest in the context of an unprecedented health emergency. The College's submissions on the *Charter* issues arising from this case are set out in detail below.

The Supreme Court and the appellate courts in Ontario and other provincial appellate courts have repeatedly held that professional regulatory bodies may limit free speech where there is a compelling public interest in doing so, and where the speech in question is of low value. College Counsel submitted that is the case here. College Counsel pointed to several cases of physicians in Ontario spreading misinformation and conspiracy theories about COVID-19, including *College of Physicians and Surgeons of Ontario v. Trozzi*, 2024 ONSC 6096 (CanLII) (Div Ct), affirming 2023 ONPSDT 22 CanLII, which is similar to the Member's conduct. College Counsel submitted that in this case, the Panel will have to engage in similar analysis at the liability stage, and that it should guide the Panel's consideration of the constitutional issues before it.

College Counsel explained that the context of the COVID-19 pandemic, and the timing of the Member's statements between October 26, 2020, and February 10, 2021, is significant. The College's public protection mandate arises in the context of an unprecedented health emergency that was continuously evolving.

College Counsel submitted that in this case, the Panel has heard clear, cogent and compelling evidence that discharges the College's burden of proof on the balance of probabilities. The Panel determined the qualification of experts and admissibility of evidence during the hearing, and it must now assess the weight to be given to that evidence. College Counsel submitted that because of demonstrated bias, lack of impartiality and the lack of relevance to the Member's statements, the Member's experts should be given less weight.

College Counsel submitted that the College's experts were highly qualified in their respective fields, were measured in their evidence and appropriately conceded the limits of their expertise. Their evidence was largely uncontested, and generally considered the Member's statements to be false, misleading or inaccurate. The Member's statements also encouraged non-compliance with public health orders. Where the expert witnesses called by the Member disagreed with the College's expert witnesses, the Member's experts either testified about their own personal reasons for disagreeing with an intervention or their evidence was completely unrelated to the Member's statement at issue. In the College's submission, the evidence of the Member's experts did not reflect the medical and scientific knowledge at the time the impugned statements were made.

College Counsel submitted that the Member's testimony was inconsistent and unreliable. The Member could not identify any recognized or peer reviewed source that she reviewed prior to sharing the statements at issue. It was clear that the Member had no scientific basis for the statements she made.

College Counsel submitted that if the Panel finds that the Member's statements contained false, misleading or inaccurate information or encouraged the defiance of public health orders, the Panel should find that this amounted to professional misconduct as the Member clearly failed to maintain the standards of the profession. There is no dispute that the College's standards of practice apply to the Member when posting on social media as a nurse. The Panel received expert evidence that the standards of practice apply when nurses make public statements and identify themselves as a nurse. The Member herself testified that the standards applied to her social media activity where she identified herself as a nurse.

College Counsel submitted that in considering what the standards required and whether the Member breached the standards, the Panel may consider the *Code of Conduct*, the *Practice Standards*, other guidelines and policies, as well as basic nursing values.

The Panel heard uncontested evidence from a nursing expert that if the Member's statements contained inaccurate, false and/or misleading information or discouraged compliance with public health orders, the Member's conduct breached the standards of practice. Nurses are expected to refrain from spreading misinformation and conspiracy theories to undermine public health measures.

The Panel was also asked to find that the Member's conduct was disgraceful, dishonourable and unprofessional. College Counsel submitted that the Member's conduct over months of spreading misinformation and undermining public health measures during a global pandemic brought shame to the profession and casts serious doubt on her moral fitness to discharge the higher obligations required of nurses. College Counsel submitted that the Member exploited the public's trust through using her nursing title when spreading misinformation, actively encouraged the public to defy public health orders aimed at keeping Ontarians safe and reducing the burden on her nursing colleagues. The Member's conduct was intentional. The Member admitted that she was aware of her nursing accountabilities and had full knowledge of the available resources to review and verify her claims before making them. Despite this, the Member ignored her nursing accountabilities and available resources.

The *Charter*

College Counsel submitted that if the Panel finds the Member committed professional misconduct, it must first consider the impact of that decision on the Member's right to freedom of expression under section 2(b) of the *Charter*. College Counsel submitted that the *Charter* analysis is only necessary if the Panel finds that the Member's conduct amounted to professional misconduct.

College Counsel submitted that there is no dispute in this case that any decision that the Panel makes engages section 2(b) of the *Charter*, which provides that everyone has "freedom of thought, belief, opinion and expression including freedom of the press and other media of communication".

College Counsel submitted that there are generally two circumstances when the *Charter* is engaged. The first is where the legislation on its face violates the *Charter*, which is not relevant here. In the second instance, the legislation itself does not violate the *Charter*, but the interpretation of it by a decision-maker may infringe on an individual's *Charter* rights. Here, College Counsel submitted that the Panel must exercise its statutory discretion to consider the effect of its decision on the Member's *Charter* rights. In making this determination, College Counsel submitted that the Panel must apply the framework set out by the Supreme Court in *Doré* v. Barreau du Québec, 2012 SCC 1 ("*Doré*").

The *Doré* framework involves a two-step analysis. The Panel must first consider the College's statutory objectives and to the extent that a finding of professional misconduct would further those objectives. At the second stage, the Panel must consider how the Member's *Charter* right to freedom of expression may best be protected in light of the College's statutory objectives.

The College's statutory objective is the regulation of the nursing profession with an overarching statutory duty to serve and protect the public interest. In this case, College Counsel submitted that a finding of professional misconduct against the Member would further this statutory objective in three ways:

1) by combating the spread of COVID-19 misinformation, and communicating that there will be serious consequences for spreading misinformation and encouraging defiance of public health orders by nurses;
2) by protecting the public from the actual harm caused by misinformation, such as vaccine hesitancy, as the Member specifically admitted that she intended for members of the public to rely on the statements she shared; and
3) by maintaining the integrity and reputation of the nursing profession and promoting trust in the nursing profession by denouncing the Member's conduct and strongly signaling to members of the public that it is not acceptable for nurses to spread conspiracy theories and misinformation during a public health emergency.

At the second stage of the *Doré* analysis, College Counsel submitted that any effect on the Member's protected right to freedom of expression would be minimal given the nature and the low value of the expression. The Member's statements went well beyond what would be considered reasonable scientific informed debate.

In balancing the public benefit of a finding of professional misconduct against the impact of the finding on the Member's right to freedom of expression, College Counsel submitted that the positive benefits to the public good far outweigh any negative effect on the Member's right to freedom of expression.

The Member's Submissions

Member's Counsel submitted that this case is not about whether the Panel agrees with the Member's statements, nor about the efficacy of public health policies in response to the COVID-

19 pandemic. Rather, the Panel must determine whether the Member's actions rise to the level of professional misconduct by making statements which were inaccurate, false and/or misleading such that they undermined the public's trust and integrity of the profession.

Member's Counsel submitted that the Member's statements were made at a time of widespread confusion and uncertainty and were driven by her desire to share alternative perspectives rather than by recklessness. While not all the Member's statements reflected mainstream perspectives, this alone cannot be the test for professional misconduct in a society that values free expression. Member's Counsel asked the Panel to uphold the Member's right to engage in public discourse, to share content that reflects diverse perspectives and to be able to do so without fear of disproportionate sanction.

Member's Counsel submitted that the evidence before the Panel does not establish that the Member's statements were false, misleading or inaccurate to the standard required to constitute professional misconduct. Professional regulation must respect fundamental freedoms which underpin our democratic society and strike a fair balance between the College's duty to protect the public interest and the Member's right to speak out on matters of public concern. Member's Counsel submitted that in the context of an evolving health crisis, questioning the dominant narrative should not be characterized as misconduct.

Member's Counsel repeated that the College bears the burden of proving the allegations on a balance of probabilities based on clear, convincing and cogent evidence. The College bears the burden of justifying any infringement of the Member's *Charter* rights.

In assessing whether the Member's statements constituted professional misconduct, Member's Counsel submitted that the Panel must consider the context of the statements including the Member's intent, the forum in which they were made and whether they were made in a professional or personal capacity. If the Panel determines that the Member's statements constituted professional misconduct, the Panel must engage in a section 2(b) proportionality analysis under the *Doré* framework.

With respect to each of the Member's statements, Member's Counsel submitted that the College did not meet its burden of proof. Each of the Member's statements were grounded in legitimate concerns with the public discourse at the time they were made, and the statements were intended to encourage critical thinking. The statements were made outside of the therapeutic nurse-client relationship and should be considered in the entire context. Member's Counsel argued that the concept of the "balance of probabilities" should not be mechanically applied, citing *Bernstein v. College of Physicians of Ontario,* 1977 CanLII 1072 (ON SC) which emphasized that panels must consider the quality and strength of the evidence, and the totality of the circumstances, including the seriousness of the allegations and the potential consequences for the Member.

Member's Counsel submitted that the College repeatedly emphasized the importance of public trust but has failed to articulate how a nurse expressing her personal views and the views of others outside of a therapeutic relationship with a patient undermines that trust. Rather, public trust is grounded in patient care and protecting appropriate standards in the therapeutic nurse-client relationship. This trust can be eroded if the College is seen to be shifting its focus from prosecuting nurses who contravene the standards in the nurse-client relationship to punishing its members for expressing views relating to contentious public health issues. Disagreement with public health measures is not automatically equivalent to disseminating false information, and critiques of public health narratives were part of legitimate scientific debate during the pandemic.

Member's Counsel submitted that the standards of practice, which the Member denied breaching, must be interpreted in their intended context. These documents articulate the expectations of nurses within their professional roles, particularly when they are engaged in a therapeutic nurse-client relationship. The standards are not designed to regulate personal expression while nurses are off duty, unless there is a clear and demonstrative connection between the expression and the profession. Here, Member's Counsel submitted that there is no evidence that the impugned statements made outside of the therapeutic nurse-client relationship compromised her ability to fulfill the professional expectations of a nurse.

With respect to allegation #2, the Member's Counsel submitted that the Member's conduct did not demonstrate disgraceful, dishonourable or unprofessional behaviour. To make such a finding, the Panel would need to find that the Member's conduct must have been so egregious as to bring the nursing profession into disrepute. Without evidence that her statements impacted her professional competence or the standards of the profession, or a consensus of members of the profession as to how the Member's statements would be regarded, the College has not proven this allegation. Member's Counsel submitted that the Panel must assess the Member's conduct against the standard of reasonable members of the profession. Given the diversity of the opinions within the nursing profession on public health measures during the pandemic, the Member's statements did not fall below the standards of the profession. The Member relied on publicly available information and sought to contribute to public discourse and raised legitimate concerns about the unintended consequences of certain public health measures. According to the Member, the College is conflating disagreement with public health policies with professional misconduct. A finding of professional misconduct would set a dangerous precedent, discouraging nurses from expressing critical perspectives because of fear related to disciplinary sanction. This would undermine the profession's ethical decision-making obligations and its vital role in advocating for public accountability.

Member's Counsel argued that the Member did not bring the profession into disrepute. Furthermore, Member's Counsel asserted that such a determination could establish an undesirable precedent by suggesting that nurses are prohibited from questioning policies. It was submitted that the standards of the profession do not extend to regulating off-duty conduct, nor do they equate such behaviour with disgraceful, dishonourable, or unprofessional

actions. The comments made by the Member were personal opinions expressed during an unprecedented crisis.

In determining whether the Member's section 2(b) *Charter* rights have been infringed, the Panel was urged to consider the statutory objectives of the College's regulatory process and how they intersect with the contextual and evidentiary record before the Panel. Member's Counsel submitted that freedom of expression is a cherished right and cited the Supreme Court's decision in *R v. Zundel,* 1992 CanLII 75 (SCC) to argue that the majority opinion is not necessarily the truth.

With respect to the *Doré* framework, Member's Counsel submitted that any limitation on the Member's *Charter* rights must be justified through a rigorous proportionality analysis. The test requires that any infringement on the Member's freedom of expression be demonstrably justified as minimally impairing and proportionate to the statutory objective.

Member's Counsel submitted that any infringement on the Member's freedom of expression should be rejected because:

1) professional discipline should not be weaponized to suppress public discourse;
2) it is not the role of Discipline Committee panels to enforce conformity with public health narratives or to punish dissenting views but to uphold the College's objective to protect the public; and
3) the College's enabling statute and objective must be defined narrowly and precisely. In particular, discipline panels must distinguish between public speech that demonstrably harms the profession and speech that simply challenges the narrative or expresses minority views. This distinction is critical to ensuring that professional regulation does not inadvertently chill legitimate expression which is fundamental to democratic engagement and accountability in healthcare.

Member's Counsel submitted that the context in which the Member's statements were made weigh in favour of the Member's section 2(b) *Charter* rights when conducting the balancing required by the *Doré* framework. Member's Counsel submitted that social media inherently functions to exchange ideas and diverse perspectives. This context places the Member's statements squarely in the realm of democratic public discourse rather than professional practice.

Member's Counsel emphasized that the Member's conduct took place while she was off duty and was separate from the professional obligations which arise from the nurse-client therapeutic relationship. Member's Counsel submitted that the Member's statements were not intended as medical advice or guidance. According to the Member, this distinction eliminates the connection to her professional obligations.

Member's Counsel submitted that the Member's intent is an important factor for the Panel to consider. The Member made her statements in a time of unprecedented uncertainty and rapidly evolving public health measures.

The Member's purpose was to engage in critical dialogue reflecting her ethical and professional values by questioning public health orthodoxy and ensuring the inclusion of diverse perspectives. These statements were not malicious but motivated by the societal impacts of public health policies which the Member observed and were intended to support the broader public interest and the democratic value of informed decision making. Advocacy for critical evaluation and inclusion of diverse viewpoints of healthcare policy is consistent with fostering public accountability, trust and the principle of informed consent.

Member's Counsel submitted that the COVID-19 pandemic is an important contextual consideration. There were reasonable disagreements about the proportionality and efficacy of public health measures. Public health authorities themselves issued contradictory and inaccurate statements, and the Member's statements were part of the broader societal discourse.

Member's Counsel submitted that the College has not adduced any direct evidence that the Member's statements undermined public trust in the nursing profession. The College's reliance on speculative assertions of harm and generalized opinions do not meet the necessary threshold to find the Member liable for professional misconduct. The Member's statements were not recklessly false; rather, they sought to balance and amplify alternative perspectives.

In response to the College's submissions on *Trozzi,* Member's Counsel argued that the Panel should consider the legal principles set out by the Supreme Court but should be cautious in importing the court's analysis to a case that has a unique set of facts. The *Doré* framework emphasizes that when alleged professional misconduct relates to free expression, the Panel must undertake a highly specific analysis in its duty of proportionate balancing. The same analysis in *Trozzi* does not apply in this case, as the statements in *Trozzi* were different than those at issue here and the contextual factors of this Member's case differ. The Member's Counsel urged the Panel to be extremely cautious in applying its analysis.

The College's Reply Submissions

College Counsel submitted that the analytical framework set out by Member's Counsel was incorrect. Whether the Member's statements were inaccurate, false and/or misleading is not a threshold question, and there are two distinct allegations of professional misconduct set out in the Notice of Hearing.

The Member has essentially asked the Panel to ignore what her posts actually said to support a different message. Member's Counsel spoke about the context of the statements but not their

content. The Member's statements fall outside the scope of reasonable informed debate about public health measures during the pandemic.

With respect to whether the Member's statements were made while she was "off duty", College Counsel reminded the Panel that the Member admitted that the standards of the profession applied to her social media use and agreed with Ms. Cava's expert evidence that the standards were engaged when she used her nursing designation to speak publicly about the COVID-19 pandemic.

Advice of Independent Legal Counsel ("ILC")

ILC advised the Panel to consider the allegations against the Member as they are set out in the Notice of Hearing. The Panel must determine whether the College has discharged its onus of proving the allegations of professional misconduct against the Member on a balance of probabilities with clear, cogent and convincing evidence.

The Panel must first assess the evidence and make findings of fact as to the Member's conduct. The Panel must then determine whether the College has proven that the facts as established constitute professional misconduct. Finally, in this case the Panel must also conduct a *Charter* analysis to determine whether finding that the Member's actions constituted professional misconduct would be proportionate infringement on the Member's freedom of expression.

ILC advised that, pursuant to s. 16 of the *Statutory Powers and Procedure Act*, the Panel is entitled to take judicial notice of certain facts related to the COVID-19 pandemic and directed the Panel to *JN v. CG,* 2023 ONCA 77 (CanLII).

ILC advised the Panel to also assess all the evidence, as well as the credibility of the witnesses and reminded the Panel that it is entitled to accept all, part or none of a witness's evidence. In this respect, ILC directed the Panel to the Divisional Court's decision in *Re Pitts and Director of Family Benefits Branch of the Ministry of Community & Social Services,* 1985 CanLII 2053 (ON SC)("*Re Pitts"*), which sets out key factors to consider in assessing credibility of a witness's evidence. ILC advised the Panel to weigh the expert evidence based on these criteria.

With respect to allegation #1, before the Panel can make a finding of professional misconduct against the Member, it must be satisfied that there is evidence before it of the applicable standards in place at the time of the misconduct.

With respect to allegation #2, the Panel must determine that the Member engaged in the impugned conduct before determining whether the conduct was relevant to the practice of nursing. If the Panel is satisfied the conduct is relevant to the practice of nursing, then the Panel must determine, having regard to all the circumstances, whether members of the profession would reasonably regard the Member's conduct to be disgraceful, dishonourable or unprofessional.

Finally, ILC advised the Panel to conduct a *Charter* analysis to determine whether a finding of professional misconduct is an appropriate infringement on the Member's right of freedom of expression. The Panel must engage in a balancing exercise that is proportionate to the statutory objectives of the College and the impact on the Member's freedom of expression.

Decision

The College bears the onus of proving the allegations in accordance with the standard of proof, that being the balance of probabilities based upon clear, cogent and convincing evidence.

Having considered the evidence and the onus and standard of proof, the Panel finds the Member committed acts of professional misconduct as alleged in paragraphs 1 and 2 of the Notice of Hearing. As to Allegation #2, the Panel finds that the Member engaged in conduct that would reasonably be regarded by members of the profession as disgraceful, dishonourable and unprofessional.

Throughout her social media posts, the Member identified herself as a nurse when making statements about health-related matters. To comply with the professional obligations and public accountabilities of the profession, the Member was required to ensure that all information she shared was truthful, supported by the best available evidence, and within her own scope of knowledge or expertise. As set out below, the Panel concluded that the Member shared information and/or made statements that was beyond her expertise as an RPN, was not based on accurate and reliable evidence and also encouraged non-compliance with public health orders.

Reasons for Decision

The Panel considered the Partial Agreed Statement of Facts, the testimony of the witnesses and the exhibits and the submissions of College Counsel and the Member's Counsel.

Credibility

In assessing the credibility of witnesses, the Panel considered the following factors from the Divisional Court Decision of *Re Pitts and Director of Family Benefits Branch of the Ministry of Community & Social Services*, where relevant:

(a) the witness's appearance and demeanor;

(b) the witness's opportunity to observe;

(c) the witness's capacity to remember;

(d) the probability or reasonability of the evidence;

(e) the internal consistency or inconsistency of the evidence;

(f) the external consistency or inconsistency of the evidence; and

(g) the witness's interest in the outcome of the case.

The Panel was cognizant that a witness's appearance and demeanour should not be an important factor in its decision and should be only one of many factors it considers. As well, the Panel did not consider the fact that the Member denied the allegations and has an interest in the outcome of this proceeding as a factor in assessing her credibility.

The Panel also understood that it can accept all, part or none of a witness's testimony and that minor discrepancies between the evidence of different witnesses does not necessarily discredit their evidence.

In assessing the credibility and in considering what weight to give to each of the expert witnesses, the Panel considered how expert or what level of expertise the witness actually had with respect to the matter on which they testified. This included, where appropriate:

(a) the manner in which the witness acquired their special skill and knowledge;

(b) their formal education;

(c) their professional qualifications;

(d) their membership and participation in professional associations related to their proposed evidence;

(e) whether the witness has attended additional courses or seminars related to the areas of evidence in dispute;

(f) their experience in the areas in which they testified on;

(g) whether the witness has taught or written in the areas in which they testified on; and

(h) whether the witness has previously been qualified to give evidence in the areas in which they testified on or whether the witness has not been qualified to give evidence in the areas and if so, the reason why.

In addition, where appropriate, the Panel also considered:

(a) were the facts relied on by the expert proven;

(b) was the expert's testimony contradicted by any authoritative textbook or articles;

(c) was the expert providing an independent opinion;

(d) did the expert have any bias; and

(e) was the expert's opinion contradicted by an opposing expert.

College Witnesses: Credibility Findings

The Panel required expert evidence to assist in determining whether the Member's conduct breached the standards of the profession and constituted professional misconduct.

For the reasons outlined below, the Panel concluded that the evidence presented by the College was clear, cogent, and convincing. The Member's expert witnesses were qualified in limited areas, resulting in less substantial evidence from the Member. When both parties provided similar evidence, the Panel favoured the College's. In cases where their testimonies overlapped, both the College and Member's witnesses generally agreed on the main points. Although there were some differences, these details were typically not significant to the issues considered by the Panel.

Dr. Mazzulli

Dr. Mazzulli was recognized as an expert in infectious diseases and medical microbiology, with a particular focus on diagnostic laboratory testing, including for SARS CoV-2 (COVID-19). The Panel was satisfied that Dr. Mazzulli's qualifications and professional experience were directly relevant to assessing the Member's statements, and in particular on PCR testing, and fell within the proper scope of expertise required to assist the Panel.

Dr. Mazzulli testified that the Member's statements regarding RT-PCR testing were inaccurate, false, or misleading. The Panel evaluated Dr. Mazzulli's evidence by his qualifications, impartiality, and how consistently his testimony aligned with the presented evidence.

Dr. Mazzulli's evidence was supported by credible scientific research, and his testimony was not undermined in cross-examination. Accordingly, the Panel accepted Dr. Mazzulli's testimony.

Dr. McKeown

Dr. McKeown is widely acknowledged as an authority in public health and epidemiology, particularly with respect to coordinating public health responses to infectious diseases. The Panel was satisfied that Dr. McKeown's qualifications and professional experience were directly relevant to a number of the Member's statements and fell within the proper scope of expertise required to assist the Panel. Dr. McKeown determined that the Member's statements were inaccurate, false, or misleading at the time they were made.

Dr. McKeown's evidence was objective and not in any way undermined on cross-examination. The Member did not introduce expert witnesses relevant to this scope; therefore, the Panel accepted Dr. McKeown's testimony.

Dr. Juurlink

Dr. Juurlink is recognized as an expert in internal medicine, adverse drug reactions in patients, clinical pharmacology, clinical epidemiology, and the evaluation of scientific research relating to

drug safety and reactions for drugs and vaccines used to treat COVID-19. The Panel was satisfied that Dr. Juurlink's qualifications and professional experience were directly relevant to the Member's statements and fell within the proper scope of expertise required to assist the Panel. Dr. Juurlink's expert opinion was that the Member's statements were mostly inaccurate and false.

The Panel assessed Dr. Juurlink's by evaluating his qualifications, impartiality, and noted that his testimony was supported by numerous high quality and authoritative research. None of Dr. Juurlink's testimony was undermined on cross-examination. None of the Member's expert witnesses testified to the areas of Dr. Juurlink's expertise, and the Panel accepted Dr. Juurlink's testimony.

Ms. Cava

Ms. Cava was recognised as an expert in nursing standards of practice, including public health nursing and nurse accountability in public communications. The Panel was satisfied that the expert's qualifications and professional experience aligned directly with the Member's statements and fell within the proper scope of expertise required to assist the Panel.

Ms. Cava opined that the Member's actions were inconsistent with professional expectations in nursing and would reasonably be regarded by members of the profession as disgraceful, dishonourable, and unprofessional conduct. Additionally, Ms. Cava testified that the Member's conduct contravened multiple professional standards.

Ms. Cava gave evidence that was straightforward, reasonable and was not undermined in any way during cross-examination. Ms. Cava's evidence was the only expert evidence before the Panel on the standards of practice, and the Panel accepted her evidence.

Credibility Findings: Member's Witnesses

The Panel heard the College's objections to the qualification of the Member's expert witnesses related to their inability to be impartial. Expert witnesses are expected to deliver fair, objective, and unbiased evidence to assist the Panel. The Panel did not share the College's concerns, *on the balance or probabilities,* that the Member's expert witnesses would be unable to provide any fair, objective or unbiased evidence that would warrant not qualifying them as experts in any areas whatsoever. Rather, the Panel acknowledged their areas of expertise where appropriate and any issues related to their impartiality or bias, was considered when assessing their evidence.

Dr. Pelech

Dr. Pelech was qualified as an expert on methods for detecting the SARS-CoV-2 virus using serological testing and the immunological response individuals with COVID-19. The Panel found that Dr. Pelech's accepted expertise did not align directly with the Member's statements. During his testimony, he frequently deviated from the main topic, offering opinions on subjects like natural immunity and often speaking on matters outside his expertise.

Dr. Pelech's evidence was not directly relevant to any of the Member's statements at issue in this proceeding, and accordingly the Panel was not able to give his evidence much weight.

Dr. Bridle

Dr. Bridle was recognized as an expert on the contents, safety, and effectiveness of non mRNA COVID-19 vaccines, and for his ability to assess scientific and medical research in this field. Dr. Bridle's testimony often strayed outside this scope. Additionally, the Member's statements did not specify the type of vaccine she was referencing. These factors combined made it difficult for the Panel to give much weight to his vaccine related testimony.

The Panel also acknowledged Dr. Bridle's expertise in evaluating the efficacy and reliability of RT-PCR tests related to COVID-19, as well as in analyzing relevant scientific and medical studies. The Panel was satisfied that Dr. Bridle's qualifications and professional experience were relevant to the Member's statements on RT-PCR testing and fell within the scope of expertise required to assist the Panel.

The Panel assessed Dr. Bridle's evidence by his qualifications, his objectivity, and how consistently his testimony aligned with the testimony of the other expert witnesses. Dr. Bridle frequently used RT-PCR testing in his research. With regard to the Member's statements, Dr. Bridle agreed with much of the opinion evidence of the College's experts. Where his testimony diverged from the College's experts, it was in areas which were not directly relevant to the Member's specific statements. Accordingly, the Panel did not give Dr. Bridle's evidence much weight in this respect.

The Member

The Member acknowledged that she either relied on personal conviction or sources which the Panel found not to be credible to support her public statements. Despite the Member's intention to broadly share different opinions related to the pandemic, the Panel noted that she did not provide any supporting research to substantiate these views. This was particularly significant given that her statements and social media posts often contradicted established public health directives. Her testimony remained consistent throughout the proceedings, including under cross-examination. The Panel recognised her vested interest in the outcome of this proceeding, which was evident, but did not consider this prejudicial. She appeared unaffected by any potential adverse influence her statements may have had on public perception. Furthermore, she exhibited limited insight into her professional responsibilities.

Allegation #1

As set out below, the Panel found that each of the statements shared by the Member were false, misleading or inaccurate. The Panel accepted the evidence from Dr. Mazzulli, Dr. McKeown and Dr. Juurlink that the Member's statements were inaccurate, false and/or misleading and/or which encouraged non-compliance of public health orders. Accordingly, the

Panel also accepted Ms. Cava's expert opinion that the Member's statements breached the College standards. Ms. Cava's expertise was unchallenged, and her testimony was not undermined in cross-examination The Panel accepted her evidence as to the standards of practice.

The Panel found that the Member's conduct breached the *Code of Conduct,* the *Professional Standards* and the *Ethics* Standard*.*

The *Code of Conduct* sets out the behaviour that the public can expect of nurses, and all nurses must comply with it. Ms. Cava's opinion evidence was accepted by the Panel. She testified, that when a nurse makes public statements while identifying as a nurse, they are subject to all the professional responsibilities and duties associated with their role. This applies whether they are providing patient care or acting within a nursing professional setting. Nurses in Ontario are regulated health care professionals who must follow the standards of practice and the *Code of Conduct*. Therefore, even when speaking outside of work, if someone identifies themselves as a nurse, they remain accountable to the obligations set by the College and the relevant practice standards. Ms. Cava emphasized that while nurses are entitled to their personal beliefs, it is essential that these do not influence the care provided when acting in a professional capacity, whether to individual clients or the broader population. In this instance, the Panel accepted there were potential significant adverse effects for the public resulting from the Member sharing information that reflected her personal and unscientific convictions, which also conflicted with the established public health guidelines.

The purpose of the obligations set out in the *Code of Conduct* is to maintain public trust and confidence in the nursing profession. The Member's conduct breached multiple principles set out in the *Code* at the relevant time*,* including principles 3.4, 3.7, and 3.9. These principles guide nurses to: recognize and work within the limits of their knowledge, skill and judgment and their legal scope of practice; use accurate sources of information, such as research, to inform their practice; and are accountable to, and practice under, relevant laws and the College's standards of practice.

The Member did not have expertise in the topics she posted about on social media and failed to provide evidence of credible scientific research to support her social medial statements. The Member failed to recognize her lack of professional experience in public health matters when she made her social media posts relating to the COVID-19 pandemic and/or the public health response. The Member admitted that she did not feel accountable to the College when posting on her social media accounts. In fact, throughout the Member's testimony she raised concerns that the College was trying to "shut down anybody that went against the narrative". Accordingly, the Member's conduct breached the *Code of Conduct.*

The *Professional Standards* describe professional expectations which apply to all nurses in every area of practice in Ontario. Nurses must refrain from performing activities in which they are not competent, and to ensure that their practice is based on theory and evidence and that it meets all relevant standards. It was evident through the Member's testimony that she failed to use

appropriate research to inform her posts, admitting that she did not consult with any known experts on public health matters. The Member further encouraged non-compliance with public health measures which were deemed necessary to maintain public safety. With respect to leadership accountability, the Member failed to act as a role model. The Member strongly encouraged the public to act out against public health measures and non-compliance. The Panel was provided evidence that the Member referred to public health professionals as "psychopaths" and "gangsters".

The *Ethics* Standard provides that consideration of ethical issues is an essential component of providing care within the therapeutic nurse-client relationship. According to Ms. Cava's expert opinion, the public is the patient during a pandemic. The Member did not uphold this commitment required by the profession. Ms. Cava testified to the importance of public trust, noting that when a nurse communicates, it is vital the information be truthful and inspire confidence in nursing. The Member did not meet the standard of truthfulness. According to Ms. Cava's testimony, the Member may or may not have intended to deceive; however, even if intent was absent, the lack of clarity created uncertainty for the public regarding whom and what to trust. Nurses must consistently demonstrate professionalism to prevent confusion and potential harm to the public. The Member failed to provide research and evidence-based information to the public. The Member's social media posts continuously encouraged noncompliance with public health orders and disregarded the College's expectations of nurses during this unprecedented time.

The Panel found the Member had shared statements with the public that were inaccurate, false and/or misleading. The Member admitted she had no record of any citations or references to the content she was posting and sharing. She was unable to share any process of gathering and collecting of research or information before posting on her social media posts. She testified that she often used Google searches and/or "people would send her stuff". The Panel had grave concerns over the Member's social media posts and their potential serious negative impact on the public.

The Member did not call any expert evidence on the standards of the profession, and the Panel accepted Ms. Cava's expert opinion as indicated above that the Member's conduct had breached the standards. Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and/or the *Ethics* Standard.

<u>Statement #1:</u>

The Member made a public speech and posted on YouTube on how wearing masks are unsafe and have detrimental effects on child's brain development. The Member's statement that masks can impact brain development was inaccurate, false and/or misleading. The Panel accepted Dr. Juurlink's opinion that after decades of healthcare workers wearing masks, there was no evidence of the assertions made by the Member that there was any negative impact on

the brain. Dr. Juurlink testified that there was research on mask wearing in children during physical exertion which indicated that masks had no ill effects.

During examination in chief and cross-examination by the College and Member's Counsel, the Member was unable to recall any peer-reviewed research articles or names of experts she referenced for this social media post. Instead, the Member frequently testified by referencing her personal experience or social media posts that were not credible.

The Member did not call any expert evidence which established that masks are in fact unsafe or have any detrimental effects on child brain development.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and/or the *Ethics* Standard.

Statement #2:

The Member posted on Twitter that COVID-19 is harmless compared to cardiovascular disease.

The Panel accepted Dr. McKeown's expert opinion that this statement was inaccurate, false and/or misleading.

Dr. McKeown testified that COVID-19 was not harmless as it was responsible for thousands of deaths, even by October 2020 when the Member made her statement. The Panel also accepted Dr. McKeown's testimony that it was inaccurate, false and/or misleading to compare COVID-19, an acute infectious disease, to cardiovascular disease, which is chronic. The Member also provided no research to justify her claim.

During examination in chief and cross-examination, the Member was unable to recall any peer-reviewed research articles or names of experts she referenced for this social media post. Dr. McKeown's opinion was also unchallenged by other expert evidence.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and/or the *Ethics* Standard.

Statement #3:

The Member posted a quote on Instagram about RT-PCR testing, indicated that the government has control and they can up-regulate and down-regulate the COVID-19 pandemic. The Member was unable to recall peer-reviewed research articles or names of experts she referenced for this social media post.

The Panel accepted Dr. Mazzulli's expert testimony pertaining to diagnostic laboratory testing, and his opinion that this statement was inaccurate, false and/or misleading. The Member's post inaccurately links RT-PCR testing cycles to something that the government willingly controls on purpose to regulate the pandemic. Testimony from both the College and the Member's experts disproved this link. All of the expert evidence agreed on the scientific merits of RT-PCR testing and that it was not a test used by the government to control the pandemic. Accordingly, the Panel concluded the Member's statement was inaccurate, false and/or misleading.

Dr. Bridle's testimony was consistent with Dr. Mazzulli's regarding how RT-PCR tests worked. Dr. Bridle disagreed with Dr. Mazzulli's opinion on the number of Cts required to elicit a positive or negative result. This was not material as the essence of the Member's statement was that there was an ability for the Ct to be manipulated, specifically by the government. Dr. Bridle did not agree with the Member's statement pertaining to the "corrupt government".

The Member was unable to identify peer-reviewed research articles or names of experts she referenced for this social media post.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and/or the *Ethics* Standard.

Testimony from both the College and the Member's experts agreed on the scientific merits and testing process for RT-PCR testing. Dr. Bridle did not commit to a Ct number, testifying that along with the Ct, a second threshold to determine the infectivity of a positive sample is important to avoid reporting false positives. On cross examination, Dr. Bridle did not dispute that quality control measures would have been performed by laboratories doing RT-PCR testing. Dr. Bridle took issue with the Member linking test results with a diagnosis for COVID since the RT-PCR test only reports the presence of genetic material, not the absence or presence of disease symptoms. He did qualify however, that 'testing positive/negative for COVID' was common language used by public health. Dr. Bridle also agreed with Dr. Mazzulli that neither the Federal nor Provincial government have any input or control over any of the test parameters and that test parameters are established by the manufacturer.

The Member's post did not show a good understanding of the RT-PCR testing process and inaccurately linked RT-PCR testing cycles to something that the government purposely controls to regulate the pandemic. Therefore, the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and the *Ethics* Standard.

<u>Statement #4:</u>

The Member posted a statement on Instagram that blue medical masks contained the chemical PTFE and were associated with other health conditions.

The Panel accepted Dr. Juurlink's expert testimony pertaining to mask wearing, and his opinion that this statement was inaccurate, false and/or misleading. Dr. Juurlink testified that PTFE is not used in the creation of surgical masks, and that they are largely made of polymers which are not carcinogenic. Dr. Juurlink's expert opinion on this point was found to be credible by the Panel and gave it significant weight. The Member was unable to provide any peer-reviewed research articles or names of experts she referenced in support of this statement.

Statement #5:

On November 9, 2020, in response to public health directives in Peel Region, the Member posted to the "Nurses Against Lockdowns" Instagram page clearly encouraging members of the public to defy the public health measures.

The Panel accepted Dr. McKeown's expert testimony pertaining to public health responses in Peel Region, and his opinion that this statement was inaccurate, false and/or misleading. Dr. McKeown's evidence was that public health measures were changing with the development of the COVID-19 pandemic and were necessary to keep the public safe.

The Panel also accepted Ms. Cava's expert opinion on the professional obligations placed on nurses when disseminating information about public health matters. In Ms. Cava's opinion, nurses must recognize the limits of their own knowledge and expertise and should refrain from disseminating information that is outside the scope of their area of expertise. Nurses need to ensure the information they share is reputable and evidence based. Ms. Cava gave detailed testimony that the Member breached professional standards and neglected her responsibilities to the public. She opined that the Member was not a public health nurse and lacked the appropriate knowledge or expertise. Despite this, the Member still disseminated information that was an example of professional misconduct inappropriate inaccurate, false, and misleading.

The Panel accepted Dr. McKeown's expert opinion, which was uncontroverted by any other expert evidence. The Member was unable to recall any peer-reviewed research articles or names of experts she referenced for this social media post. Accordingly, the Panel found that the Member blatantly encouraged non-compliance with mandated public health measures, potentially causing harm to people who may have acted on her post, and that this contravened the standards of practice.

The Panel also found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the including the *Code of Conduct*, *Professional Standards and Ethics Standard*.

Statement #6:

The Member shared a video link on the "Nurses Against Lockdowns" Facebook page that the creator of the COVID-19 test claimed that the pandemic was a "hoax".

The Panel accepted Dr. McKeown's expert evidence on the COVID-19 pandemic, and his opinion that this statement was inaccurate, false and/or misleading. Dr. McKeown testified that there has been widespread recognition about the existence and seriousness of the COVID-19 pandemic by health experts, institutions such as the WHO and the provincial and federal governments. On cross-examination, Dr. McKeown's testimony was consistent and unwavering.

Dr. Pelech acknowledged that the world was experiencing a pandemic caused by a virus that was circulating and causing people to be sick. This was consistent with Dr. McKeown's evidence that there was a pandemic and that viruses can cause illness. The Member was unable to direct the Panel to any peer-reviewed research articles or names of experts she referenced for this social media post, nor was there any expert evidence before the Panel to suggest that this statement was accurate.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the C*ode of Conduct*, the *Professional Standards* and the *Ethics* Standard.

Statement #7:

The Member posted a video about COVID-19 vaccines suggesting the COVID-19 vaccine contained MCRC-5, which is aborted fetal tissue, and would alter human DNA.

The Panel accepted Dr. Juurlink's expert testimony pertaining to vaccines, and his opinion that the Member's statement was inaccurate, false and/or misleading. Dr. Juurlink testified that MRC-5 was not used to make the COVID-19 vaccines, and the COVID-19 vaccines do not contain fetal cell lines. Dr. Juurlink testified that the COVID-19 vaccines do not alter human DNA.

The Panel only qualified Dr. Bridle to opine on viral vector vaccines. Dr. Bridle's testimony on viral vector vaccines was consistent with Dr. Juurlink's, in that he opined that MRC-5 is not contained in viral vector vaccines. COVID-19 mRNA vaccines are not viral vector vaccines.

The Member was unable to direct the Panel to any peer-reviewed research articles or experts she referenced for this social media post. Dr. Juurlink's expert opinion was that this statement was inaccurate, false and/or misleading was uncontroverted, and the Panel accepted it.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and the *Ethics* Standard.

Statement #8:

The Member posted a link to a video that contained several concerning statements, including that:

- the COVID-19 pandemic was a hoax;
- the COVID-19 vaccine was not safe or effective;
- since no new deaths had occurred related to COVID-19, there was no need for a new vaccine;
- the COVID-19 vaccine may alter human DNA, genes or cells;
- COVID-19 is comparable to a seasonal flu in terms of mortality and transmissibility;
- children do not suffer from COVID-19;
- vaccines can sterilize men, women and their unborn children; and
- COVID-19 can be treated with vitamins D, C and zinc, and other "safe medicines", and that quarantining, mask-wearing and vaccines were not necessary.

The Panel accepted Dr. McKeown's expert opinion that COVID-19 has caused 7.8 times more cases and 23 times more deaths since the pandemic began than seasonal influenza in the preceding four years, and that COVID-19 has been shown to be more transmissible.

The Panel accepted Dr. Juurlink's expert opinion that the Member's statement about the COVID-19 vaccine not being safe or effective was inaccurate, false and /or misleading. Dr. Juurlink testified that evidence showed reduced rates of infection due to the COVID-19 vaccine. In addition, the vaccine also reduced the rates of severity of infection and mortality rates associated with COVID-19. Dr. Juurlink further opined that there was no evidence to support the Member's statement that the COVID-19 vaccines can sterilize men, women and their unborn children. This opinion was uncontroverted by any other expert evidence, and the Panel accepted it.

The Member was unable to direct the Panel to any peer-reviewed research articles or names of experts she referenced for this social media post, nor was there any other expert evidence adduced before the Panel to support the veracity of these claims.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the C*ode of Conduct*, the *Professional Standards* and the *Ethics* Standard.

Statement #9:

The Member posted a video on Facebook entitled "Cancer laced va$$ines". The video contained statements with respect to vaccines containing MRC-5 cell line and gene editing.

The Panel accepted Dr. Juurlink's expert testimony pertaining to vaccines, and his opinion that the Member's statement is inaccurate, false and misleading. Dr. Juurlink testified that MRC-5 was not used to make the COVID-19 vaccine, that human DNA is not changed by the COVID-19 vaccine and that you cannot rewrite the human genome with these vaccines.

Dr. Bridle testified that MRC-5 is not seen in viral vector vaccines and that he does not see that the COVID-19 vaccine contains MRC-5. Throughout Dr. Bridle's testimony, he opined on areas outside of the scope for which the Panel qualified him. Accordingly, the Panel did not consider Dr. Bridle's testimony outside of the areas in which the Panel had qualified him as an expert.

The Member was unable to direct the Panel to any peer-reviewed research articles or names of experts she referenced for this social media post, nor was there any other expert evidence supporting the truth or accuracy of these claims.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and the *Ethics* Standard.

Statement #10:

The Member posted a statement on Instagram and Facebook to the effect that promoting and advertising the use of an experimental and unsafe vaccine was a crime against humanity.

The Panel accepted Dr. McKeown's expert testimony pertaining to vaccines and accepted his opinion that the Member's statement was false, inaccurate and/or misleading. Dr. McKeown testified that there is a system in Canada to determine when a vaccine is safe to use and recommend when the vaccine should be used by the general population. The federal government continues to monitor for problems and adverse effects, which true for all vaccines. All vaccines must have a post-marketing surveillance process to be approved. When Health Canada approves a vaccine, this is inherently evidence-based because the approval process involves the review of evidence, safety effectiveness, quality and risk versus benefits. Health Canada uses a widely accepted approach for approving vaccines. Dr. McKeown testified that it is a nurse's professional responsibility to be advocates for effective treatments including immunizations. Nurses uphold the oath "to do no harm" by promoting and advocating the use of vaccines. There is no basis for the statement that this was a "crime against humanity".

The Member could not direct the Panel to any peer-reviewed research articles or names of experts she referenced for this social media post, nor was there any expert evidence before the Panel which supported the accuracy of this statement.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and the *Ethics* Standard.

Statement #11:

The Member posted a link to her Facebook page with an interview from Dr. Lee Merritt, that:

- COVID-19 is not that deadly;
- to prevent hospitalization or serious COVID-19 people needed to "get their Vitamin D levels up";
- referring to COVID-19 vaccines as "experimental biologics";
- encouraging treatment of COVID-19 with hydroxychloroquine and ivermectin; and
- encouraging hugging one's relatives and discouraging masking.

The Panel accepted Dr. McKeown's and Dr. Juurlink's expert testimony. Dr. Juurlink and Dr. McKeown testified that the Member's statement is inaccurate, false and/or misleading.

Dr. McKeown testified that there was significant mortality rate from COVID-19. He also testified that when viruses evolve, they can become weaker, less deadly and more transmissible over time. Dr. McKeown testified that saying that COVID-19 is "not all that deadly" is not a reasonable statement. At the time of the Member's post, Ontario had experienced over 5,000 deaths from the pandemic, which was a significant scale of mortality.

Dr. McKeown testified that this statement advocates behaviours which are known to increase the transmission of the virus, i.e. hugging, visiting older adults. Dr. McKeown testified that if people followed the advice on the video, it would be expected to increase COVID-19 transmission. Dr. McKeown testified that all COVID-19 restrictions were recommendations that were understood at the time to be effective in preventing the transmission of COVID-19.

The Panel also accepted Dr. Juurlink's expert opinion that the statement contains false, inaccurate and misleading information. Dr. Juurlink provided the Panel with several randomized controlled trials which established that the therapies mentioned in the video are not effective against COVID-19. Dr. Juurlink also testified that, in randomized controlled trials, the COVID-19 vaccines have been demonstrated to successfully reduce the rates of infections, severity, hospitalization and mortality among different populations.

During examination in chief and cross-examination, the Member was unable to recall peer-reviewed research articles or names of experts she referenced for this social media post. There was no other expert evidence before the Panel to demonstrate that any of the content of this social media post was accurate, and Dr. Juurlink's expert opinion was accepted by the Panel.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and the *Ethics* Standard.

Statement #12:

The Member posted a link to her Facebook and Instagram pages with questions related to the COVID-19 pandemic. The video questioned death rates, why influenza rates have disappeared and lock down measures that purportedly "didn't work".

As set out above, the Panel accepted Dr. McKeown's expert testimony pertaining to the COVID-19 pandemic, including the process of vaccine authorization by Health Canada, the evolution of viruses over time, and it would be incorrect to use flu death statistics to inform the public regarding the COVID-19 pandemic. In particular, Dr. McKeown explained that PHO showed that lockdowns did have the desired effect and opined that the lockdowns contributed positively to reduced infection rates.

The Panel also accepted Dr. Juurlink's expert opinion that vaccines do not enter the nucleus of the cell and are not expected to change your DNA.

During examination in chief and cross-examination, the Member was unable to recall peer-reviewed research articles or names of experts she referenced for this social media post.

Accordingly, the Panel found that the Member's statement was inaccurate, false and/or misleading and thereby contravened the *Code of Conduct*, the *Professional Standards* and the *Ethics* Standard.

Allegation #2

The Panel found that the Member's conduct was relevant to the practice of nursing and would reasonably be regarded by members of the profession as disgraceful, dishonourable and unprofessional.

While the Member's conduct did not occur in a clinical setting, her actions had a negative impact on the nursing profession and potentially placed the public at risk by spreading false, inaccurate and misleading information. This was relevant to the practice of nursing as she used her professional designation as a nurse on her platforms to intentionally magnify and influence her social media following. Once the Member identified herself as a nurse, her statements were no longer a personal view but rather expressed a professional view, which engaged the standards of practice of the profession. While the Member's Counsel argued the Member's statements and posts statements were made outside a therapeutic nurse-client relationship and were not intended as medical advice or guidance, the Panel did not accept this argument. The Member intentionally leveraged the nursing profession to garner more followers, and her posts were blatantly intended to influence the public and their health care choices. Accordingly, her conduct was relevant to the practice of nursing.

The Member's conduct in sharing inaccurate, false and/or misleading social media posts including encouragement of non-compliance with public health directives was unprofessional as it breached the *Code of Conduct*, *Professional Standards* and the *Ethics* Standard. Nurses are required to maintain honesty, integrity, and accuracy in all communications. The dissemination of misinformation can undermine public trust in both nursing professionals and the broader healthcare system. False or misleading health information may cause individuals to refuse essential treatments or vaccinations, pursue unsafe remedies, or misinterpret health risks. Given that nurses serve as trusted sources of health information, the spread of misinformation has the potential to directly harm patients or communities and is a violation of the principle of nonmaleficence. The Panel carefully reviewed Exhibit #12, including the Fault Lines report, which recognizes that misinformation's potential to create harm and undermine progress and public trust in scientific research, public health policy, and public institutions.

Key principles of the nursing profession are caring, respect, and trustworthiness. Upholding these standards requires professional conduct and patient advocacy that fosters public health and well-being. In situations involving debate or disagreement, nurses are expected to remain civil, collaborate effectively, and prioritise the public interest. During public health emergencies, such as the COVID-19 pandemic, nurses should maintain awareness of research and public health directives while refraining from actions that might undermine established public health initiatives as set out in the INRC Position Statement entitled: Social Media Use: Common Expectations for Nurses (Exhibit DD to the Partial Agreed Statement of Facts).

The Panel acknowledges that questioning prevailing narratives and engaging in health debate can be appropriate; however, the Member demonstrated a significant disregard for the public interest. Her social media posts were based on unreliable information, which was not derived from professional, evidence-based sources. These posts could have created public uncertainty regarding official mandates and appeared to serve her personal interests rather than constructive discourse. The Member did not consider the potential consequences of her statements, including the potential risks that individuals might follow her advice to the detriment of their own or others' health.

The Member's conduct was also dishonourable, as she knew or reasonably should have known that this conduct was inappropriate. She leveraged the trust associated with her nursing designation to lend credibility to her statements. The Member acknowledged that she used her nursing credentials specifically because nurses are trusted by the public, and she believed her statements would carry more weight as a result.

Additionally, the Member utilized her platform to promote and endorse various individuals presenting themselves as "experts" on COVID-19 and vaccines, irrespective of whether these individuals possessed relevant qualifications or expertise.

The Panel also found that the Member's conduct was disgraceful. The Member urged the public to disregard public health orders that were implemented to protect community safety. She

referred to dedicated healthcare professionals—who were working tirelessly throughout the pandemic—as “psychopaths” and “gangsters.” Such remarks are highly disrespectful, which shamed the Member and by extension the profession, particularly in the context of an overburdened healthcare system and its exhausted workers who were acting in good faith to safeguard public health.

The Member's actions fostered an environment where misinformation could circulate, potentially resulting in significant public harm during the COVID-19 pandemic by increasing hesitancy and eroding trust in those dedicated to safeguarding Ontarians throughout this exceptional medical crisis. Such conduct undermines the integrity and reputation of the nursing profession, bringing shame to the profession and to the Member, and was disgraceful.

Charter Analysis

The Panel is satisfied that the finding of professional misconduct proportionately balances the College's statutory objectives with the Member's section 2(b) *Charter* rights.

The Panel acknowledges that a finding of professional misconduct would affect the Member’s right to freedom of expression. The Panel considered the College’s statutory objectives and to the extent that a finding of professional misconduct would further those objectives. The Panel also considered how the Member’s *Charter* right to freedom of expression may best be protected in light of the College’s statutory objectives.

In considering the statutory objectives and applying the proportionality analysis directed by the Supreme Court in *Doré*, the Panel considered the context in which the allegations of professional misconduct arose. The Member identified herself as a nurse and made inaccurate, false and/or misleading statements in a public forum during an unprecedented public health emergency caused by the COVID-19 global pandemic. The College's statutory objectives are thus grounded in that context. In upholding the College's overriding duty to regulate the profession in the public interest, a finding of professional misconduct based on the member's communications to the public about COVID-19 is necessary.

College Counsel argued that the College’s statutory mandate to protect the public interest takes precedence over the Member’s freedom of expression. The College is responsible for safeguarding public interest through the promotion of safe nursing practices. The Panel acknowledges that these responsibilities have become even more critical in light of the public health emergency presented by the COVID-19 pandemic. After weighing these objectives against the implications of a finding of professional misconduct on the Member’s freedom of expression, the Panel determined that the imperative to protect the public overwhelmingly outweighs any adverse impact on expression. Furthermore, the Panel found that the Member’s speech offered minimal expressive value and did not embody the fundamental principles that the right to expression is intended to safeguard.

The Panel recognized that the Member's right to express her views on the COVID-19 pandemic is protected by the *Charter*; however, the Panel concluded that once the Member identified herself as a nurse, her professional obligations and accountabilities were triggered. In this regard, the Member admitted during her testimony that she deliberately relied upon her professional credentials as a nurse to improve the credibility of her statements.

The impact on the Member's rights must be considered in deciding whether a finding of professional misconduct arising out of the Member's expressive activity is justified. The Panel concluded the College would not be fulfilling its responsibility to regulate the profession in the public interest if it did not take action to investigate and deter such conduct. In balancing the statutory objectives against the impact of a finding of professional misconduct on the Member's freedom of expression, while recognizing the impact of our finding on the Member's *Charter* rights, in these circumstances, the statutory objectives are paramount and the effect on her expressive rights is minimal.

Conclusion

The Panel found that the College has proven the allegations against the Member on a balance of probabilities based on clear, cogent and convincing evidence. The Member has engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable or unprofessional and has failed to maintain the standards of practice of the profession. In considering the statutory objectives, the Panel finds it important to highlight the context in which the allegations of professional misconduct arise. This Member's actions occurred during the height of a public health emergency caused by the COVID-19 global pandemic. This is the context in which the Panel must uphold the College's statutory objective in protecting the public. In upholding the College's overriding duty to regulate the profession in the public interest, a finding of professional misconduct based on the Member's communications to the public about COVID-19 further reflects these statutory objectives.

Resumption of Hearing for Penalty

Given the Panel's findings in this Decision, the Hearings Administrator will contact the parties to schedule a date on which the hearing will resume to address the issue of penalty.

I, Mary MacNeil, RN, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel.

Mary MacNeil
Mar 13, 2026 1:38 PM EDT
Chairperson