

Divisional Court File No:

**DIVISIONAL COURT,
SUPERIOR COURT OF JUSTICE**

BETWEEN:

THE COLLEGE OF NURSES OF ONTARIO

Prosecutor
Respondent in Appeal

-AND-

SARAH A. CHOUJOUNIAN-ABULU

Member
Appellant in Appeal

NOTICE OF APPEAL

THE APPELLANT, SARAH A. CHOUJOUNIAN-ABULU, APPEALS to the Divisional Court from (i) the Decision and Reasons on Liability of the Discipline Committee of the College of Nurses of Ontario, signed March 13, 2026, and (ii) the Penalty and Costs Order of the Discipline Committee dated July 6, 2026, made following a discipline hearing concerning allegations of professional misconduct.

THE APPELLANT ASKS that the decisions and order be set aside and that judgment be granted as follows:

1. An order allowing the appeal.

2. An order setting aside the findings of professional misconduct and dismissing the allegations in the Notice of Hearing.
3. An order setting aside the reprimand, revocation and costs provisions of the Penalty and Costs Order dated July 6, 2026.
4. In the alternative, an order remitting the matter for a new hearing before a differently constituted panel, with such directions as this Court considers just concerning the reception and consideration of the Appellant's evidence and the qualification and permissible scope of expert witnesses.
5. An order setting aside the award of \$297,976.40 in costs or, alternatively, remitting costs for redetermination with reasons.
6. The Appellant's costs of this appeal.
7. Such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS OF APPEAL are as follows:

1. The Panel of the Discipline Committee of the College of Nurses of Ontario erred in law, fact and mixed fact and law in finding that the twelve impugned statements were inaccurate, false and/or misleading and that the Appellant encouraged non-compliance with public-health measures.

2. The Panel misapprehended, failed to consider, or failed to give legally appropriate effect to material evidence, concessions and limitations in the evidence, and made palpable and overriding errors in its assessment of the evidentiary record.
3. The Panel erred in law and misapprehended its gatekeeping function in its qualification and scope rulings concerning Dr. Steven Pelech and Dr. Byram W. Bridle, including by conflating the threshold requirements for admissibility with matters of weight, defining their permitted expertise too narrowly, restricting responsive defence evidence, and then discounting evidence because it fell outside the scopes imposed by the Panel.
4. The Panel breached procedural fairness and denied the Appellant a meaningful opportunity to make full answer and defence by refusing to provide timely reasons for its expert-qualification rulings and withholding those reasons until the final liability decision, after the defence evidence had concluded.
5. The Panel erred in law and breached procedural fairness in refusing the Appellant's proposed scientific evidence, including peer-reviewed literature tendered or marked for identification in connection with the evidence of Dr. Pelech and Dr. Bridle, and in refusing leave to call the proposed expert evidence of Dr. David J. Speicher.
6. In exercising its evidentiary gatekeeping function, the Panel applied improper principles and considerations, failed to assess the proposed evidence in relation to the specific issues and impugned statements, and gave disproportionate effect to timing, cost and alleged overlap without considering measures capable of addressing any procedural prejudice to the Respondent.

7. The cumulative effect of the qualification, evidentiary and procedural rulings denied the Appellant a fair hearing and materially impaired the presentation of her defence.

8. The Panel erred in law in interpreting and applying the College's Code of Conduct, Professional Standards and Ethics Standard to the Appellant's public expression outside a clinical or nurse-client relationship, and in treating her identification as a nurse as sufficient to establish the required nexus between the impugned expression and the practice of nursing.

9. The Panel erred in its interpretation and application of the statutory test for disgraceful, dishonourable and unprofessional conduct, including by collapsing distinct statutory concepts, treating the disputed accuracy and standards findings as determinative, and failing to undertake the required contextual analysis.

10. The Panel erred in law in its analysis under section 2(b) of the Canadian Charter of Rights and Freedoms and the framework established in *Doré* and *Loyola*, including by undervaluing the protected expression, failing to account meaningfully for its subject matter and context, and failing at both the liability and penalty stages to demonstrate a proportionate balancing of the Appellant's freedom of expression with the College's statutory objectives.

11. The liability reasons were legally inadequate on material contested issues, including the evidentiary and expert-scope rulings, the treatment of the defence evidence, the application of professional standards to expression outside nursing practice, and the required Charter balancing.

12. The Panel erred in law and breached procedural fairness by imposing revocation, a reprimand and costs of \$297,976.40 without providing reasons for the Penalty and Costs Order, including reasons addressing the parties' submissions, the Appellant's circumstances and

mitigating evidence, proportionality and parity, available lesser measures, Charter values, or the calculation and proportionality of costs.

13. The penalty was unfit, excessive and disproportionate to the misconduct found, including having regard to the absence of clinical conduct or demonstrated patient harm, the Appellant's practice and registration circumstances, the expressive nature of the conduct, the available protective alternatives, and the mitigating circumstances advanced before the Panel.

14. The costs award was excessive, disproportionate and punitive, and failed to distinguish costs reasonably attributable to the Appellant's conduct from the length and complexity of the Respondent's prosecution and from motions, adjournments or procedural steps that were granted, reasonably brought, or required by the manner in which the hearing unfolded.

15. The Panel otherwise erred in law or jurisdiction, breached procedural fairness, made palpable and overriding errors of fact or mixed fact and law, and reached decisions and an order that cannot stand on the record and governing law.

16. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS:

(a) Section 70 of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*.

(b) The Penalty and Costs Order dated July 6, 2026 is the final disposition of the proceeding. Leave to appeal is not required.

The Appellant requests that this appeal be heard at Toronto, Ontario.

TAKE NOTICE: THIS APPEAL WILL AUTOMATICALLY BE DISMISSED if it has not been set down for hearing or terminated by any means within five years after the notice of appeal was filed with the court, unless otherwise ordered by the court.

Dated this 5th day of August 2026.

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THE COLLEGE OF NURSES OF ONTARIO

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**DIVISIONAL COURT
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PROCEEDING COMMENCED AT TORONTO

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