

This is the 1st Affidavit
of A. Hill
and was made on January 27, 2023

IN THE MATTER OF the CITATION issued September 27, 2022 pursuant to Section 37 of the
Health Professions Act, RSBC 1996, c 183

BETWEEN

BRITISH COLUMBIA COLLEGE OF NURSES AND MIDWIVES (the “College”)

PETITIONER

AND

SEAN TAYLOR (“Mr. Taylor”)

RESPONDENT

AFFIDAVIT

I, **Alexandria Hill**, Legal Assistant, of 200 – 537 Leon Avenue, Kelowna, British Columbia,
MAKE OATH (OR AFFIRM) AND SAY AS FOLLOWS:

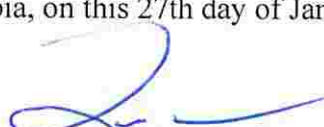
1. I am a legal assistant with the firm of Doak Shirreff Lawyers LLP, solicitors for Sean Taylor (the “**Respondent**”). I have personal knowledge of the facts and matters hereinafter deposed to save and except where the same are stated to be based on information and belief and where so stated I verily believe the same to be true.
2. Now shown to me and attached as Exhibit “A” to my affidavit is a true copy of a letter dated December 20, 2022 received from Mr. Brent Olthuis, Counsel for the BC College of Nurses and Midwives in relation to the citation issued September 27, 2022, providing his availability for a hearing as well as providing his comments on the matter of preliminary applications.
3. Now shown to me and attached as Exhibit “B” to my affidavit is a true copy of an email dated December 20, 2022 sent by Mr. Lee Turner, Counsel for the Respondent to Mr. Brent Olthuis, Counsel for the College, and to Mr. Fritz Gaerdes, Counsel for the panel,

requesting a discussion regarding the logistics of the file moving forward, and stating the Respondent's position regarding fundamental principles of procedural fairness, and disclosure.

4. Now shown to me and attached as Exhibit "C" to my affidavit is a true copy of an email sent by Mr. Lee Turner, Counsel for the Respondent to Mr. Brent Olthuis, Counsel for the College dated January 4, 2023, inquiring into whether the College would agree to produce the material requested by Mr. Turner.
5. Now shown to me and attached as Exhibit "D" to my affidavit is a true copy of an email received from Mr. Brent Olthuis dated January 4, 2023, providing a response in regard to the College's position on disclosure.
6. Now shown to me and attached as Exhibit "E" to my affidavit is a true copy of the British Columbia College of Nurses and Midwives Citation to Mr. Sean Taylor dated September 27, 2022.

I make this my Affidavit in support of the Orders sought in the Notice of Application dated January 27, 2023 and for no improper purpose.

SWORN (OR AFFIRMED) BEFORE ME)
at Kelowna in the Province of British)
Columbia, on this 27th day of January,)
2023.)



A commissioner for taking affidavits for
British Columbia)



Alexandria Hill

IN THE MATTER OF the CITATION issued
September 27, 2022 pursuant to Section 37 of the
Health Professions Act, RSBC 1996, c 183

BETWEEN

**BRITISH COLUMBIA COLLEGE OF NURSES
AND MIDWIVES (the “College”)**

PETITIONER

AND

SEAN TAYLOR (“Mr. Taylor”)

RESPONDENT

AFFIDAVIT

Lee C. Turner
Doak Shirreff Lawyers LLP
Barristers and Solicitors
200-537 Leon Avenue
Kelowna, BC
V1Y 2A9

Telephone: 250.763.4323
Fax: 250.763.4780

20 December 2022

BY EMAIL (fritz@preciousgaerdes.com)

Precious Gaerdes LLP

Suite 2100 – 1055 West Georgia Street

Vancouver, BC V6E 3P3

Attn: Fritz Gaerdes

Dear Sir:

Re: BC College of Nurses and Midwives – Discipline Hearing (Sean Taylor)

We write in response to your email, dated 15 December 2022.

Counsel for the BC College of Nurses and Midwives (BCCNM) are available for a hearing on the following dates:

- a. 27 February to 3 March 2023;
- b. 6 to 10 March 2023; and
- c. 11 to 14 April 2023.

Counsel is available for a one-hour pre-hearing conference on the following January 2023 dates: 16 to 20 and 23 to 27.

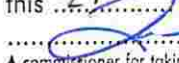
The College is not proposing any preliminary applications, but will respond to any proposals that Mr. Taylor wishes to make. The College proposes that the parties follow the timelines prescribed in s. 38(4.1) of the *Health Professions Act* in terms of disclosing documentary evidence, expert opinions evidence and lay evidence; stated otherwise, the College proposes that this deadline be fixed to the re-scheduled hearing.

Yours sincerely,

OLTHUIS VAN ERT



Per: Natalie Chan

This is Exhibit "A" referred to in the
affidavit of Alexandria Hill
sworn before me at Kelowna
in the Province of British Columbia,
this 27th day of January 2023

A commissioner for taking Affidavits within British Columbia.
A Notary Public in and for the Province of British Columbia.

Alex Hill

From: Lee Turner
Sent: Tuesday, December 20, 2022 10:05 AM
To: Brent Olthuis; Fritz Gaerdes
Cc: Susanna Yan; Nazio Filice; Rick McCurrach; Alex Hill; Natalie Chan
Subject: RE: Sean Taylor - BCCNM Discipline Hearing
Attachments: RE: Sean Taylor - BCCNM Discipline Hearing
Categories: Moved to Synergy Matters

This is Exhibit "B" referred to in the affidavit of Alexandra Hill sworn before me at Kelowna in the Province of British Columbia, this 27th day of January 2023
.....
A commissioner for taking Affidavits within British Columbia.
A Notary Public in and for the Province of British Columbia.

Brent, in light of Mr. Gaerdes email that I have attached, I thought it would be prudent for us to have a conversation about how this matter moves forward. Before we can have a prehearing conference we will need disclosure, or alternatively we will have to make an application for disclosure of the prehearing conference. I suspect that is not necessary. What we would like to see produced are all emails, meeting minutes, correspondence, notes, of Interior Health, the College, anyone within the Ministry of Health, concerning Mr. Taylor and his employment with the health Authority, and his standing with the College, and the issues raised in the citation issued September 22, 2022. The disclosure should also include the audio or video and any transcripts of the incidents referenced in the citation that form the basis of the citation, including a copy of the complaint itself. We also require the particulars of how each paragraph of the citation and the conduct referred to violates any statute, bylaw or practice standard. The way in which the citation is worded leaves it completely open as to what provisions the College is saying have been breached and why. We require these particulars before we can proceed. Your client's position with respect to producing these materials and particulars, and the time required to do so, will impact the dates we propose to the discipline panel for the preliminary hearing conference and the hearing on the merits itself. Please let me know if your client is prepared to agree to produce this information and what time they will need to do so.

Secondly, we will be taking the position that the College has breached the fundamental principles of procedural fairness. The impugned conduct allegedly took place between March 2020 and November 2020. We are advised that our client was suspended by Interior Health from his employment in September 2021 a few days after the current government was reelected. In October 2021 his employment with Interior Health was terminated. Mr. Taylor ceased to be a registrant of the College on March 31, 2022. The citation was not issued until nearly 6 months after his registration with the College had lapsed, and almost 2 years after the impugned conduct allegedly occurred and approximately one year after he was suspended and eventually terminated from his employment. This certainly does not meet the standard required of the College in such serious matters.

I would be very interested to hear what the College is seeking as punishment as a result of the citation. Our client has already lost his career and his income and is now selling fish out of the back of his truck travelling around British Columbia. What more does the College want to do to this gentleman and why?

Perhaps we can have a telephone conversation to discuss these matters and then we can work together at coming up with appropriate dates for the prehearing conference and the main hearing.

Regards,

Lee C. Turner
Partner

DS | Doak Shirreff
Lawyers LLP

T. 250.763.4323 | F. 250.763.4780
200-537 Leon Avenue, Kelowna BC V1Y 2A9
[Website](#) | [Bio](#)

Alex Hill

From: Fritz Gaerdes <Fritz@preciousgaerdes.com>
Sent: Thursday, December 15, 2022 9:07 AM
To: Lee Turner; Brent Olthuis
Cc: Susanna Yan; Nazio Filice; Rick McCurrach; Alex Hill; Natalie Chan
Subject: RE: Sean Taylor - BCCNM Discipline Hearing

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Olthuis and Mr. Lee,

I have heard back from the Panel and I am instructed to advise you that pursuant to section 38(4.2) of the *Health Professions Act*, the Panel orders the following:

1. The discipline hearing scheduled for January 4 to 6, 2023 is adjourned.
2. Each of the parties are directed to provide Independent Legal Counsel for the Panel, by no later than 5pm on January 4, 2023, with the following:
 - a. all calendar dates, which need not be consecutive dates, during February, March, and April 2023 on which they are available to proceed with a 3-day discipline hearing;
 - b. all calendar dates and times during January 2023 on which they are available for a 1-hour pre-hearing conference (PHC) by telephone; and
 - c. a schedule for the exchange of application materials, for any preliminary application(s) the parties wish the Panel to consider during such PHC.

I trust you will find the above in order and wish you all a very happy holiday season.

Kind regards,

Fritz Gaerdes, Partner*
Precious Gaerdes LLP

Vancouver | Halifax

Suite 2100 – 1055 West Georgia Street
Vancouver, BC V6E 3P3
T604.637.6355
F604.734.7994

1959 Upper Water Street, Suite 1301, Tower 1
Halifax, Nova Scotia B3J 3N2
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F902.707.4234

www.preciousgaerdes.com

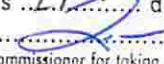
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From: Lee Turner <lturner@doakshirreff.com>
Sent: Wednesday, December 14, 2022 1:11 PM
To: Brent Olthuis <bolthuis@ovcounsel.com>; Fritz Gaerdes <Fritz@preciousgaerdes.com>

Alex Hill

From: Lee Turner
Sent: Wednesday, January 4, 2023 11:13 AM
To: Brent Olthuis
Cc: Natalie Chan; Rick McCurrach; Alex Hill; Nazio Filice
Subject: RE: Sean Taylor - BCCNM Discipline Hearing

Categories: Moved to Synergy Matters

This is Exhibit "C" referred to in the affidavit of Alexandra Hill sworn before me at Kelowna in the Province of British Columbia, this 27th day of January 2023

A commissioner for taking Affidavits within British Columbia.
A Notary Public in and for the Province of British Columbia.

Brent, are you in a position to advise if your client will agree to produce the material requested in my December 20, 2022 email? Your client's response, and when they will agree to produce the material (assuming they do agree), will affect the dates that I am able to propose for the pre-hearing conference, and the hearing dates, as we will need time to receive and review the documents to know if an application for further disclosure is necessary, and time to prepare those materials.

I would also like to hear your client's response to my question about what further punishment your client is hoping to administer. Our client has lost his license and his career and is in a dire financial situation. What more does the College think they need to do to Mr. Taylor?

As I am supposed to provide counsel for the disciplinary panel with my proposed dates today, but I am not able to do that until I know the answers to my questions about disclosure at the very least. Thank-you.

Regards,

Lee C. Turner
Partner

DS | Doak Shirreff
Lawyers LLP
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200-537 Leon Avenue, Kelowna BC V1Y 2A9
[Website](#) | [Bio](#)

This email was created with voice recognition software

This electronic mail communication may contain privileged and confidential solicitor-client communications and/or lawyer work product. If you have received this communication in error or are not the intended recipient, please delete the communication without using, copying or otherwise disseminating it. Please notify the sender that you have received the message in error. Thank you.

From: Brent Olthuis <bolthuis@ovcounsel.com>
Sent: December 20, 2022 5:05 PM
To: Lee Turner <lturner@doakshirreff.com>
Cc: Natalie Chan <nchan@ovcounsel.com>; Rick McCurrach <rmccurrach@doakshirreff.com>; Alex Hill <ahill@doakshirreff.com>
Subject: RE: Sean Taylor - BCCNM Discipline Hearing

Lee:

Apologies for not having copied you on this in the first instance. In any event, I attach our letter to Fritz Gaerdes, which went out this afternoon.

Alex Hill

From: Brent Olthuis <bolthuis@ovcounsel.com>
Sent: Wednesday, January 4, 2023 3:21 PM
To: Lee Turner
Cc: Natalie Chan; Rick McCurrach; Alex Hill; Nazio Filice
Subject: RE: Sean Taylor - BCCNM Discipline Hearing

Categories: Moved to Synergy Matters

Lee:

This is Exhibit "D" referred to in the affidavit of Alexandra Hill sworn before me at Kelowna in the Province of British Columbia, this 27th day of January 2023

.....
A commissioner for taking Affidavits within British Columbia.
A Notary Public in and for the Province of British Columbia.

I'm not clear why you are asking these questions as if they are preparatory to your response re: proposed pre-hearing conference dates. Fritz Gaerdes asked us both on 15 December to respond to him by no later than 5:00 today, with available dates and a schedule for the exchange of application materials. We responded more than two weeks ago, and stated in that response that we would disclose our evidence in accordance with the timelines in s 38(4.1): i.e., at least 14 days before the hearing. Absent any order from the panel to the contrary, that is the timeline that applies.

It strikes me as putting the cart before the horse to say that you need disclosure before you are able to participate in a pre-hearing conference...unless perhaps you are anticipating a PHC that takes place in the two weeks before the hearing. (I am not assuming this to be the case given the substantive relief you have suggested you will seek in the PHC, and its potential impact on the hearing – not to mention that the panel may reserve judgment and not rule on your applications immediately.)

I can advise, to the extent it assists you, that our disclosure will include an affidavit from the investigator. That affidavit appends the investigator's report, which itself includes the complaint.

I can also advise that the College has not yet determined what penalty it might seek at a hearing. As you'll appreciate, the requested penalty will to a large extent turn on how the evidence goes in. If Mr Taylor is open to resolution discussions, we would encourage him to provide you full instructions to have meaningful discussions in that regard.

I look forward to receipt of your response to Fritz, before 5:00 tonight.

Regards,

Brent

Brent Olthuis (he/him)
236.330.2666

OLTHUIS | VAN ERT
ovcounsel.com

BRITISH COLUMBIA COLLEGE OF NURSES AND MIDWIVES

CITATION

(Section 37 of the *Health Professions Act*, RSBC 1996, c.183)

TO: Sean Taylor

[REDACTED]

[REDACTED]

Registration No. [REDACTED]

This is Exhibit "E" referred to in the affidavit of Alexandra Hill sworn before me at Kelowna in the Province of British Columbia, this 27th day of January, 2023.

.....
A commissioner for taking Affidavits within British Columbia.
A Notary Public in and for the Province of British Columbia.

TAKE NOTICE that a Panel of the Discipline Committee of the British Columbia College of Nurses and Midwives ("BCCNM") will conduct a hearing into your conduct and competence as a Registered Nurse registrant under s. 38 of the *Health Professions Act* (the "Act").

The hearing will be either held at the offices of BCCNM, 900-200 Granville Street, Vancouver, British Columbia, or be conducted by videoconference, on **November 15 to 17, 2022** commencing at 10:00 a.m.

You are requested to attend the hearing. You have the right to be represented by legal counsel and to submit evidence. However, if you fail to attend the hearing, the Panel will proceed with the hearing in your absence, and without further notice to you, may take any action that it is authorized to take under the Act.

The purpose of the hearing is to inquire into your conduct as follows:

1. Between approximately 31 March 2020 and 2 November 2020, you made the following statements while identifying yourself as a registered nurse:
 - a. (about COVID-19) "...[Y]ou will get people to wear your masks and put them in your internment camps ... but there is a group of people, myself included, and you, and a bunch of friends, who will not comply. We will meet you in the streets and do this the old fashioned way."
 - b. (about movements including Black Lives Matter) "The restraint that's being shown on the Right... I watch that shit, I wanna take a road trip and go down and play paint ball."
 - c. (about COVID-19) "[W]here does influenza come from? It is an avian virus and a porcine virus that usually comes from China because of the interface with Chinese culture".
 - d. "There are so many times that I am comforting people in triage, who are terrified to be in the hospital, and I tell them there is no virus here. Don't worry about it. [...] We had no cases admitted to the hospital. [...] They still buy into this narrative."

e. *"I don't wear a mask [...] it's a load of horse shit."*

These remarks, made in these contexts, are contrary to BCCNM's Professional Standards and/or Practice Standards, including: the *Professional Responsibility and Accountability* Professional Standard, the *Knowledge-Based Practice* Professional Standard, and the *Ethical Practice* Professional Standard. They also constitute professional misconduct, unprofessional conduct, and/or a breach of the Act or by-laws, under s. 39(1) of the Act.

2. On 22 June 2020, you gave an interview to Global News (the "Segment"). The Segment was titled *"A Kelowna nurse says alleged racism in the emergency rooms having a negative impact on medical staff"*. The Segment was filmed outside the Kelowna General Hospital, and you wore your scrubs with a stethoscope around your neck. In the Segment, you discussed allegations of racial discrimination against Indigenous patients and expressed the view that such news resulted in patients making allegations of racism against a nurse when they do not get their way.

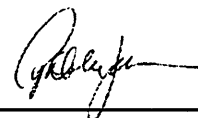
This conduct is contrary to BCCNM's Professional Standards and/or Practice Standards, including: the *Professional Responsibility and Accountability* Professional Standard, the *Knowledge-Based Practice* Professional Standard, the *Client-Focused Provision of Service* Professional Standard, and the *Ethical Practice* Professional Standard. It also constitutes professional misconduct, unprofessional conduct, and/or a breach of the Act or by-laws, under s. 39(1) of the Act.

The Discipline Committee is constituted under the Act and BCCNM's by-laws. You are referred to ss. 37 to 40 of the Act, as well as ss. 196 to 213, and Schedules I and J of the by-laws.

FURTHER TAKE NOTICE that after a hearing under s. 38 of the Act, the Discipline Committee may make such determinations and orders under s. 39 of the Act as it considers appropriate.

This Citation is issued at the direction of BCCNM's Inquiry Committee under s. 37 of the Act.

**BRITISH COLUMBIA COLLEGE OF
NURSES AND MIDWIVES**



Cynthia Johansen
Registrar / CEO

September 27, 2022

Date