

In the matter of an appeal to the Commissioner under the  
*Private Training Act*, [S.B.C. 2015], c.5 [PTA]

by

Canadian Health Care Academy [**CHCA**]

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**DECISION**

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## INTRODUCTION

1. CHCA provided Practical Nursing and Practical Nursing Access programs (the “**Programs**”) to students wishing to acquire designation as Licensed Practical Nurses. The Programs were delivered from CHCA’s Surrey campus at 202 - 10252 City Parkway, Surrey, BC.
2. The Programs were, until October 16, 2020, recognized by the BC College of Nurses and Midwives (“**BCCNM**”), formerly, the BC College of Nursing Professionals (“**BCCNP**”). On June 8, 2020, the Health Professions Designation and Amalgamation Regulation was amended to amalgamate BCCNP and the College of Midwives of British Columbia to create BCCNM effective September 14, 2020. Thus, the governing body setting standards and authorization to conduct the Programs offered by CHCA was initially BCCNP but then, through amalgamation, became BCCNM.
3. BCCNM is a health profession college established under the *Health Professions Act*, R.S.B.C. 1996, c. 183 and meets the definition of “regulator” in the Private Training Regulations (“**PTR**”). BCCNM and the Registrar of the Private Training Institutions Branch (“**PTIB**”) have concurrent jurisdiction to regulate CHCA. Under the legislation the Registrar requires BCCNM recognition before issuing certification to schools seeking to offer Programs. CHCA had such recognition to October 16, 2020.
4. By the PTA, CHCA had to hold a certificate issued by the Registrar approving of the Programs. By the PTA, the Registrar has the power to suspend and cancel a certificate.
5. By the PTR, CHC was required to maintain evidence it met BCCNM’s requirements. Based on its failure to comply with section 18(2)(l) of the PTR, its certificate was cancelled as of October 16, 2020. As of that date, CHCA had approximately 50 students enrolled in the Programs.
6. I am the appointed Commissioner pursuant to section 59 of the PTA. As allowed under the PTA, the CHCA commenced, on November 15, 2020, an appeal to me from the decision to cancel the certificate. I have the jurisdiction to dismiss the appeal, allow the appeal with directions, or to vary the decision to cancel the certificate. The Registrar opposes the granting of any relief to CHCA and submits the appeal be dismissed with costs payable by CHCA.
7. In its notice of appeal, CHCA requested that I hold an oral hearing. Submissions by CHCA and the Registrar were provided on that issue and I ruled that an oral hearing would not be granted. As a result, this appeal proceeded by written submissions which were received by both parties.
8. These are my reasons for dismissing the appeal.

## BACKGROUND FACTS

9. On April 29, 2019, BCCNP sent CHCA a detailed Practical Nursing Education Program report setting out deficiencies identified in a program review. BCCNP also sent CHCA a warning that Programs recognition could be withdrawn if deficiencies were not remedied. It then extended recognition of the Programs to June 20, 2019. Copies of the warning letter and program review were forwarded to the Registrar.

10. On May 21, 2019, the Registrar reminded CHCA of the need to meet BCCNP's requirements under PTR 18(2)(l) which states:

A certified institution must do all of the following in relation to an approved program of instruction: in relation to Class A Programs and Class B Programs leading to employment in a career or occupation that is regulated by a regulator, maintain evidence that the institution meets the regulator's requirements.

11. In that letter the Registrar also advised CHCA to report any correspondence from BCCNP that "may reasonably affect CHCA students (PTR 55(l)(e))". The Registrar also expressed concern about the potential impact on students, encouraging CHCA to develop contingency plans for students against the eventuality that the Programs recognition was withdrawn.
12. Over a period of approximately one year, considerable correspondence occurred between BCCNP, the Registrar and CHCA, all directed to ensuring that CHCA complied with directives designed to bring CHCA into compliance with BCCNP's standards including multiple extensions of the Programs' recognition to April 24, 2020. CHCA failed to meet the necessary requirements and on May 8, 2020, BCCNP advised CHCA that it was commencing the formal process of withdrawing recognition of the Programs. In that notice, BCCNP also expressed concern about CHCA's plan to enroll 56 students in its June 2020, intake.
13. On May 11, 2020, CHCA advised students of BCCNP's decision. The Registrar considered that this letter:

"... included vague and convoluted information regarding the BCCNP recognition withdrawal process and offered false assurances to students by stating that students and tuition fees are fully protected. The letter also falsely claimed that its Education Quality Assurance designation meant CHCA "has met or exceeded provincial government – recognized quality assurance standards".

On May 12, the Registrar advised CHCA that its website contained deceptive advertising, requesting student records and clarifying that students can only claim on the Student Tuition Protection Fund (the "**FUND**") in limited circumstances.

14. Notwithstanding the many warnings and extensions given to CHCA, it did not improve its Programs such that it met the standards required by BCCNP (later BCCNM). Accordingly, BCCNM advised CHCA on September 1, 2020, that the Programs would be removed from Schedule B of its bylaws, effective October 16, 2020.
15. Subsequently, the Registrar issued to CHCA a Warning of Suspension and offered CHCA an opportunity to respond. The Registrar specified that if she moved to suspension, the suspension would be effective until October 16, 2020, after which she would determine whether the suspension should continue or whether to cancel.
16. On September 9, 2020, the Registrar wrote to CHCA confirming her finding that CHCA was in contravention of PTR 18(2)(l) and her decision not to suspend CHCA's certification at this time. In that letter, the Registrar set two requirements for CHCA to meet.

17. Later in September, the Registrar wrote to CHCA advising that the second of the two requirements had not been met.
18. On October 1, 2020, the Registrar issued an Important Notice to CHCA, advising that, effective October 16, 2020, she may cancel CHCA's certificates on the basis that CHCA is contravening PTR 18(2)(l). The Registrar also stated that if, on October 16, 2020, BCCNM had not amended its bylaws to recognize the Programs and CHCA was not in a position to ensure students could complete a recognized Licence Practical Nursing program at no additional costs or receive a suitable refund, she would have no choice but to cancel CHCA's certificates.
19. Further correspondence took place between the Registrar and CHCA up to October 16, 2020, when the Registrar issued the cancellation decision which is the subject of this appeal.

## **THE POSITION OF THE PARTIES**

### **APPELLANT**

20. In support of its appeal, CHCA filed a submission which, in my view, was vague and convoluted. It is largely based on the premise (falsely in my view) that, in making the cancellation decision, the Registrar acted improperly, outside her authority and in collusion with BCCNM.
21. Its submissions are replete with allegations of bad faith and conspiratorial conduct on the part of the Registrar, PTIB staff, BCCNP/BCCNM staff, and others, without any credible evidentiary support for those allegations.
22. CHCA alleges that the Registrar was biased, abused her position, acted outside her jurisdiction and made false findings. It alleged that the Registrar altered and created false documents to cover hers and her associates illegal acts.
23. Generally, the submission launches blistering personal attacks and wild, completely unfounded accusations of misconduct. These attacks are led by Michael Khan, who describes himself as "Senior Education Administrator on behalf of Canadian Health Care Agency Inc.". For the most part, the submissions made by Mr. Khan on behalf of CHCA are: disgraceful rants; nonsensical; and completely miss the issues that should be addressed in the appeal.

### **REGISTRAR**

24. As a general response, the Registrar submits that the cancellation decision was reasonable and justifiable in the circumstances. The Registrar acted within her authority and in keeping with her statutory obligations under the PTA and regulations. The respondent submits that, since April 2019, the Registrar was closely monitoring CHCA's status with BCCNM. As BCCNM's process unfolded and the likelihood increased that program recognition would be withdrawn, the Registrar began to take a more active role. The Registrar maintained close contact with BCCNM and kept herself apprised of the evolving situation. This, says the Registrar, is evidence of the Registrar acting responsibly and diligently in furtherance of student protection.
25. The Registrar gave the CHCA ample notice of her concerns regarding the impact on students if recognition were withdrawn. As early as May 2019, the Registrar encouraged CHCA to develop a contingency plan.

26. The Registrar submits that CHCA's contention that BCCNM's withdrawal of recognition was a factor out of CHCA's control is not tenable. This was a circumstance of CHCA's own making. CHCA's contravention of PTR 18(2)(l) is directly tied to CHCA's failure to meet BCCNM's program standards, a failure which ultimately resulted in BCCNM's decision to withdraw recognition.
27. The Registrar did not take any enforcement action against CHCA until BCCNM had completed its process to withdraw recognition and CHCA had exhausted all BCCNM internal appeals.
28. The enforcement action taken was proportionate to the seriousness of the contravention, and more specifically the adverse impact on students. Cancellation of CHCA certificates was the only way to provide relief to students enrolled in the programs at the time Programs recognition was withdrawn. The Registrar was compelled to take action that would enable students to access the FUND and complete a recognized program. To act otherwise would have amounted to a dereliction of her statutory obligation to protect students.
29. Cancellation was a reasonable and necessary response to the circumstances before the Registrar.

#### **DECISION**

30. Since this appeal was initiated, CHCA has sent to me thousands of pages of unsolicited correspondence on matters largely irrelevant to the merits of this appeal. The substance of which is much the same as its submissions made to me on this appeal itself, being vague and convoluted. That correspondence includes unfounded and highly prejudicial personal allegations against the Registrar, unreasonable demands, and threats of legal action for failure to respond.
31. I find that the Registrar, throughout the entire process, was discharging her statutory duties to ensure compliance by CHCA with its obligations and in protecting students both from a financial and a training perspective. I also find that the Registrar provided CHCA with a long period in which it could have met the standards required, gave multiple and gradual steps that any sensible organization could have and should have seen as helpful and remedial. Unfortunately, all of this was in vain. Instead, Mr. Khan on behalf of CHCA, preferred to argue, dispute and defame, sending copies of his personal views to many institutions and persons having nothing whatsoever to do with the appeal.
32. In the result, I find that this appeal has absolutely no merit and it is dismissed.
33. The Registrar seeks costs of the appeal.
34. Under PTA 51(1), I can make an order for costs if I consider the conduct of the institution in relation to the appeal to have been improper, vexatious, frivolous or abusive. In my view CHCA's conduct in this appeal has been improper, vexatious, frivolous and abusive. Costs are awarded to the Registrar.

  
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Ronald McKinnon, Commissioner