

**CITATION:** McMillan v. College of Nurses, 2025 ONSC 6295  
**DIVISIONAL COURT FILE NO.:** DC-25-00000317-00ML  
**DATE:** November 10, 2025

**SUPERIOR COURT OF JUSTICE – ONTARIO  
DIVISIONAL COURT**

**RE:** Motion - In-Writing

Lisbeth McMillan

Moving Party

**AND:**

College of Nurses of Ontario

Responding Party

**BEFORE:** Justice O'Brien

**COUNSEL:** Moving Party, Self-Represented

Megan Shortreed and Douglas Montgomery, Counsel for the Responding Party

**HEARD:** In-Writing

**ENDORSEMENT**

**Overview**

[1] The moving party, Ms. McMillan, asks for an extension of time to seek judicial review of a decision of the Inquiries, Complaints and Reports Committee (ICRC) of the College of Nurses of Ontario dated April 25, 2023. Ms. McMillan successfully filed her motion for an extension of time on April 25, 2025, almost two years after the 30-day deadline for seeking judicial review.

[2] The ICRC decision arose from a report to the College made by Ms. McMillan's former employer, Sunnybrook Health Science Centre. Sunnybrook raised concerns related to Ms. McMillan's interactions with colleagues, failure to appropriately attend to patients, medication errors, and improper access to and alteration of patient records. The ICRC decided to require Ms. McMillan to complete a specified continuing education or remediation program (SCERP) and attend for a caution. This outcome was based on concerns about only two of the reported issues: medication errors and inappropriate access to patient charts. The ICRC did not refer Ms. McMillan for disciplinary action.

[3] For the following reasons, the motion is dismissed.

### Analysis

[4] Applications for judicial review must be brought within 30 days of the decision being challenged. Pursuant to s. 5(2) of the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1 (JRPA), the court may extend the time for bringing an application where “there are apparent grounds for relief and no substantial prejudice or hardship will result to any person affected by reason of the delay.”

[5] In exercising its discretion to determine whether to grant an extension, the court may consider the length of and any explanation offered for the delay: *Unifor and its Local 303 v. Scepter Canada*, 2022 ONSC 5683, at para. 18.

[6] Considering the relevant factors in this case, it is not in the interests of justice to grant an extension.

### *Apparent Grounds of Relief*

[7] The question of whether the application raises apparent grounds of relief requires a consideration of the merits of the proposed application. In this case, Ms. McMillan’s submissions raise two primary themes: The first is that the ICRC’s decision does not take into account her response and evidence. She continues to assert her version of events. The second is that the ICRC process and decision were procedurally unfair, especially because of the passage of time between the incidents and the report to the College.

[8] In assessing Ms. McMillan’s position, it is important to understand that the standard of review applied to a decision of the ICRC is reasonableness. This means the court will not intervene in the merits of an ICRC decision unless it is unreasonable: *Dr. Luchkiw v. College of Physicians and Surgeons of Ontario*, 2022 ONSC 5738, at para. 49. It is not the role of a reviewing court to re-weigh the evidence. Although the ICRC does not make “factual findings” but instead raises concerns arising from the evidence, it is relevant that a reviewing court will not interfere with factual determinations absent exceptional circumstances: *Matheson v. College of Physicians and Surgeons of Ontario*, 2021 ONSC 7597, at para. 31. The ICRC is a screening committee made up of a majority of professional members. The court will show deference to its assessment of possible harm to the public and in its choice of remedial outcomes: *Peterson v. College of Psychologists of Ontario*, 2023 ONSC 4685, at para. 45; *Pitter v. College of Nurses of Ontario*, 2022 ONSC 5513, at para. 29; *Haddad v. Health Professions Appeal and Review Board*, 2024 ONSC 6015, at para. 46.

[9] Ms. McMillan relies on her version and recollection of the incidents in issue. For example, she states with respect to one of the alleged medication errors, that she and the oncoming nurse to the shift reviewed the medication administration record, the doctor’s medication orders and her charting for this patient together. With respect to another alleged medication error, she relies on charting she says she added to the patient chart, but that was not present in the patient’s chart. These are detailed factual statements that the ICRC was not compelled to accept in the face of

other information that raised concerns about her conduct, including documentation that was in the patient chart and statements she made during the fact-finding meeting with Sunnybrook. Considering the standard of review and the court's limited role in assessing the facts, Ms. McMillan would face an uphill battle to persuade the court to intervene in the ICRC's factual concerns.

[10] With respect to the alleged procedural unfairness, the ICRC's decision directly addressed the passage of time and considered Ms. McMillan's submission that it had affected her recollection of events. The ICRC concluded there was sufficient information to raise a concern about Ms. McMillan's conduct because of contemporaneous documentation and employer interviews. At the same time, it must be remembered that the ICRC did not refer Ms. McMillan to the College's Discipline Committee. Ms. McMillan has not explained how this was an unsatisfactory manner of dealing with her allegations of delay.

[11] It is not the role of the court on a motion for an extension of time to assess the merits of a proposed application in detail. Further, a moving party need not show she has a successful application on the merits to satisfy the requirement for apparent grounds of relief: *Unifor*, at para. 22. However, I conclude overall the grounds for Ms. McMillan's application are weak.

### *Prejudice*

[12] Turning to prejudice, although the College does not assert specific prejudice, prejudice may be presumed in cases where an applicant has not brought an application for judicial review within the stipulated timelines. I agree with Ryan Bell J. in *Rowe*, when she states at para. 49: "[T]he public has a strong interest in the timely and final resolution of the ICRC process given the possible repercussions of clinical practice or conduct issues on public health in the province of Ontario." In this case, the delay has been well beyond the 30 days set out in the JRPA and has extended to almost two years after the timeline for initiating the application for judicial review.

### *Length of and Explanation for the Delay*

[13] This brings me to the final issue of the length of and explanation for the delay. The failure to explain a delay may be "foremost among the factors" in a court refusing to grant relief: *Rowe v. College of Nurses of Ontario*, 2023 ONSC 3735, at para. 31, quoting from *P.P.G. Industries Canada Ltd. v. Canada (Attorney General)*, 1975 CanLII 204 (SCC), [1976] 2 S.C.R. 739, at p. 749. I am not satisfied with Ms. McMillan's explanation for the delay in this case.

[14] Ms. McMillan acknowledges that she became aware of the option to bring an application for judicial review on May 4, 2023, well within the time frame for doing so. Although she then took some steps to initiate an application, she did not pursue this option in a consistent or timely manner. Although Ms. McMillan first contacted the Court of Appeal on June 1, 2023 and was redirected to this court, she did not file a motion or application with this court in a timely manner, even though: (1) this court provided her with information in June 30, 2023; (2) College counsel provided information on how to start an application in July 2023 and September 2023; and (3) court staff provided further instructions in October 2024, January 2025, and February 2025. Ms. McMillan's motion was not successfully filed until April 25, 2025.

[15] I agree with the College that Ms. McMillan has not provided a sufficient explanation to justify the delay in finally filing her motion. Ms. McMillan has raised her request for the College's agreement to an extension of time for filing, but the College was not required to consent to the late filing of the application. She also relies on time spent communicating with the College and taking steps to comply with the ICRC's order. This is a separate issue and does not justify the delay in starting this proceeding. Ms. McMillan generally asserts emotional distress. I recognize that College and court proceedings can be emotionally distressing, but without evidence of the delay being attributable to a specific medical condition or any more specific evidence of the connection between her distress and the delay, this general assertion is insufficient to justify a delay of almost two years.

[16] Taking all the factors into account, the circumstances of this case do not justify granting an extension of time. The motion is dismissed.

[17] The College seeks costs of \$2,500. This is a very reasonable position and a significant reduction from its actual costs incurred, which amount to over \$14,000 on a partial indemnity scale. Ms. McMillian shall pay costs to the College in the amount of \$2,500.

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O'Brien, J

**Released: November 10, 2025**