CITATION: Dore v. College of Nurses of Ontario, 2026 ONSC 2218
DIVISIONAL COURT FILE NO.: DC-24-95
DATE: 20260415

ONTARIO

SUPERIOR COURT OF JUSTICE

DIVISIONAL COURT

Shore, O'Brien and I. Smith JJ

BETWEEN:	
MELISSA DORE Appellant	*Melissa Dore*, Self-Represented
– and –	
COLLEGE OF NURSES OF ONTARIO Respondent	*Jean-Claude Killey*, Counsel for the Respondent
	HEARD on March 2, 2026

O'BRIEN J.

REASONS FOR DECISION

Overview

[1] The appellant is a nurse practitioner who, between September 2021 and February 2022, issued 396 exemption letters intended to allow her clients to avoid mandatory COVID-19 vaccination requirements during the pandemic. She provided the letters to clients after they emailed her to say they had watched an informational slide presentation she created. The appellant appeals the findings of the Discipline Committee of the College of Nurses of Ontario that her conduct constituted professional misconduct.

[2] There were two types of exemption letters provided to the vast majority of the appellant's clients. One exemption letter stated the client was exempted from taking the COVID-19 vaccine "due to current medical circumstances, and informed consent." The other exemption letter stated the client had "been advised against this vaccine as a result of medical history." A third type of letter was provided to a few clients stating only that attending the educational session met the

qualification for vaccine exemption (without reference to a medical exemption or informed consent).

[3] The appellant justified her conduct in part by saying she was following the requirements of a directive published by the Chief Medical Officer of Health, which related to the practices of certain health organizations. Employees of the organizations covered by the directive – Directive 6 -- could decline vaccination after completing an approved educational session. The appellant believed the slide presentation she provided would meet the standards set out in Directive 6. The appellant also took the position most of her letters were "informed consent" exemptions. She considered the clients to be sufficiently informed by the slide presentation that they could make an informed choice about not receiving a vaccination.

[4] Following an investigation and hearing, in a decision dated October 27, 2024, the Discipline Committee found the appellant had committed professional misconduct. It concluded the exemption letters were, or purported to be, medical exemptions. It went on to find the appellant breached multiple standards of practice of the profession, including relating to documentation, failing to establish a therapeutic nurse-client relationship, and failing to comply with the standard published by the College for nurse practitioners.

[5] The Discipline Committee also found the appellant's conduct was unprofessional, dishonourable and disgraceful, including in that she demonstrated "a serious and persistent disregard for her professional obligations" by issuing the medical exemptions in the circumstances. It found the appellant's conduct put her clients at risk. However, it dismissed an allegation that the appellant had charged excessive fees for the exemption letters.

[6] In a separate penalty decision, the Discipline Committee ordered that the appellant attend to be reprimanded, and that her certificate of registration be revoked. The Committee was of the view that during the period the appellant's certificate of registration was suspended on an interim basis she had not gained insight into her actions. It found the evidence showed the appellant was ungovernable because of the repetitive nature of her conduct.

[7] The appellant only appeals the findings of professional misconduct. Her notice of appeal asks that those findings be quashed and does not seek relief in relation to the penalty decision. At the hearing of the appeal, the appellant stated that if the Discipline Committee's findings are upheld, she accepts the penalty it ordered.

[8] The appellant submits that the Discipline Committee erred in the merits decision by (1) confusing the concepts of nurse educator and informed consent and, related to this, by treating the letters as medical exemption letters; (2) failing to appreciate she was appropriately following Directive 6 and other guidance; and (3) failing to refer to her evidence. She also alleges the Discipline Committee was biased and acting in collusion with the Registered Nurses' Association of Ontario, who she advised had denied her funding for legal representation until the hearing before the Discipline Committee was almost over.

[9] For the following reasons, the application is dismissed.

Standard of Review

[10] The standard of review on appeal from the Discipline Committee's decision is correctness in relation to errors of law and palpable and overriding error with respect to questions of mixed fact and law where a legal principle is not readily extricable: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para. 37.

[11] The allegation that the Committee had a reasonable apprehension of bias raises a legal question of procedural fairness to which the correctness standard applies. The appellant has otherwise not advanced any errors of law on the part of the Discipline Committee, nor errors of mixed fact and law where there is an extricable legal principle. The deferential standard of palpable and overriding error therefore applies to her remaining allegations.

Did the Discipline Committee err in treating the letters as medical exemption letters?

[12] The appellant makes two submissions related to the characterization of the letters. First, she submits that the Committee erred by confusing the roles of an educator and a primary care provider. She says she was acting in the capacity of an educator. Second, she submits her letters reflected informed consent and not a medical exemption. She says this is why she did not perform assessments on the clients who received the letter referring to informed consent.

[13] It is implicit in the Committee's decision that it rejected the first aspect of the appellant's submission. The allegations of professional misconduct were not focused on the degree to which the appellant was providing information or education, but on the appellant providing her clients with letters after they said they had viewed the slide presentation. In other words, regardless of whether she was educating her clients, the issue was that the appellant subsequently provided the clients with a letter exempting them from vaccine requirements. There was no error, therefore, in the Committee focusing on whether providing the letters in the circumstances constituted professional misconduct.

[14] On the second aspect of the appellant's submission, the Committee rejected her claim that the letters were not medical exemptions because they were based on informed consent. The Committee noted that one type of exemption letter expressly stated it was provided as the patient's "medical exemption from taking the COVID-19 vaccine." The letter also stated the client had been advised against taking the vaccine "as a result of their medical history." The other type of letter also referred to the client's medical circumstances. It said the patient was "ineligible for taking the COVID-19 vaccine due to current medical circumstances, and informed consent." The Committee further noted that the appellant signed the letters in her capacity as a nurse practitioner.

[15] It was squarely within the expertise of the Committee to conclude the letters constituted medical exemption letters. The conclusion was open to the panel on the record, particularly considering the express reference to the clients' medical circumstances and history in the letters. There was no palpable and overriding error and therefore no basis for the court to interfere in the Committee's findings.

Did the Committee err in finding professional misconduct when the appellant was relying on guidance from Directive 6 and other documents?

[16] The appellant submits the Committee erred in finding she had committed professional misconduct even though she had met the requirements of various documents, including Directive 6. She argues that in September 2021, the College had not published any guidance on exemptions from COVID-19 vaccinations. She therefore relied on Directive 6, as well as on College practice guidelines regarding consent and decision-making about procedures and authority. The appellant also submits her conduct complied with the Nuremberg Code, which provides that voluntary consent is essential to any medical experimentation on humans. She argues that there was no long-term safety data on the vaccines and that the vaccines' product monographs recognized potential risks from taking them.

[17] The Committee did not commit any palpable and overriding error in its findings that the appellant breached various standards of practice of the profession. It considered Directive 6 but found it did not provide guidance the appellant could rely on. This is because Directive 6 was aimed at "covered organizations," which was a term clearly defined in the document, and applied only to public hospitals, service providers within the *Home Care and Community Services Act*, Local Health Integration Networks, and ambulance services. Directive 6 did not apply to nurse practitioners working independently in the community, like the appellant. In any event, the appellant's presentation was not approved by a "covered organization," as required by the directive. There is no basis to interfere in the Committee's finding that Directive 6 did not apply to the appellant's conduct.

[18] The Committee found the appellant had breached the standards of practice because she issued medical exemptions that were not indicated and/or appropriate. It found the breach of numerous standards of practice, including that her documentation did not provide the required information, that she did not develop the nurse-client relationship required to conclude a medical exemption was indicated or appropriate, and that because she did not meet with each client individually, she did not ensure the clients were followed or referred to other health care practitioners where appropriate. She also failed to conduct assessments of the clients and failed to reach a diagnosis or create an appropriate follow-up plan of care.

[19] As one example, the Committee noted the appellant had provided a letter of exemption for a client and her four children, after only the client observed part of the presentation by Zoom.

[20] The Committee's conclusions on breaches of the standard of practice were factual findings. To the extent the resulting finding of professional misconduct was a question of mixed fact and law, there is no extricable legal principle. On the record, there was ample evidence for the Committee to reach its conclusions. The appellant's reference to Directive 6, the other practice guidelines, and the Nuremberg Code does not undermine those conclusions nor form a basis for the court to interfere in the Committee's decision.

Did the Discipline Committee err by failing to refer to the appellant's evidence and arguments?

[21] The appellant submits the Committee erred by failing to refer to her evidence and arguments. She states, for example, that the Committee did not refer to the practice guidelines she relied upon nor to the *Health Care Consent Act, 1996*, S.O. 1996, c. 2, Sched. A, which she had drawn to the Committee's attention. She also complains that the Committee did not assess her credibility.

[22] An administrative decision-maker is not required to refer to every piece of evidence adduced or submission made by a party, so long as it engages with their central arguments. Here, the Committee directly acknowledged the appellant's submission that she "was committed to patient autonomy and providing the information for her clients to make an informed decision" and that "if people did not want the vaccine, it is not ethical to force them to take it": Committee's Decision and Reasons, at p. 13. It noted her reliance on the College's *Ethics* standard. It also directly addressed Directive 6 and found the appellant's reliance on it was inappropriate since it did not apply to her.

[23] It is not that the Committee did not acknowledge and address the appellant's arguments, but that it did not agree with her. The Committee found, for example, that the exemption letters were not about informed consent, but were intended to provide medical exemptions. As described above, it went on to find that the appellant had breached multiple standards of practice. It is clear from the Committee's decision read as a whole that it the appellant's conduct was not excused by her belief that she was applying principles of informed consent.

[24] The Committee also was not required to assess the appellant's credibility, since its findings of professional misconduct did not turn on questions of credibility but on facts about the appellant's conduct that were not in dispute.

[25] This ground of appeal is dismissed.

Was there a breach of procedural fairness because the Discipline Committee demonstrated a reasonable apprehension of bias?

[26] In oral submissions in this court, the appellant argued the College had prosecuted her maliciously. Among other submissions, she stated the professional organization of which she was a member, the Registered Nurses Association of Ontario (RNAO), had refused to fund her legal fees until after she served them with a civil suit seeking damages. She says the RNAO ultimately granted her legal assistance on May 1, 2024, when the hearing before the Discipline Committee was almost over. She suggests this supports her belief that the RNAO and Committee colluded against her.

[27] These allegations are entirely devoid of merit. There is a strong presumption that tribunal members behave in a manner without bias or prejudice: *Wewaykum Indian Band v. Canada*, 2003 SCC 45, [2003] 2 SCR 259, at para. 59. Further, to the extent a litigant alleges reasonable apprehension of bias, they are required to raise it before the decision-maker, so that the decision-maker has an opportunity to rule on the allegations: *Chiarelli v. Ottawa (City of)*, 2021 ONSC

8256, at paras. 77-79. In this case, although the appellant's concerns with the RNAO appear to have crystallized late in the Discipline Committee hearing, the hearing was not yet concluded. The last hearing date was May 14, 2024.

[28] In any event, the appellant has not shown that her dealings with the RNAO have any relevance to the Committee's decision. The appellant has made a bald allegation of collusion and bias, which she did not raise before the Committee and for which there is no evidentiary foundation.

[29] This allegation is dismissed.

Publication Ban

[30] The College seeks the continuation of the publication ban granted by the Committee under s. 45(3) of the *Health Professions Procedural Code*, Schedule 2 to the *Regulated Health Professions Act*, 1991, S.O. 1991, c. 18. The Committee's order prevented the publication of names of patients or any information that could disclose the identities of patients. The record before the Committee contained the names and the personal health information of patients who were not parties to the proceeding.

[31] The Committee's order met the requirements of *Sherman Estate v. Donovan*, 2021 SCC 25, [2021] 2 S.C.R. 75 and shall be continued in this court to avoid inconsistency with and subversion of the purpose of the Committee's order. The test is met for an exception to the open court principle considering the sensitive personal health information at issue, and the fact that the patients were strangers to the proceeding. The patients did not choose to make their information available. The benefit of keeping the information confidential outweighs the negative effects since it allows the Discipline Committee to carry out its functions without undue impact on uninvolved third parties.

Disposition

[32] The application is dismissed. The appellant, as the unsuccessful party, shall pay costs of $5,000 all-inclusive to the College.

_____
O'Brien J.

I agree _____
Shore J.

I agree _____
I. Smith J

Released: April 15, 2026

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O'Brien, J.

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