In the Matter Of:

The Long-Term Care Homes Public Inquiry

DAY 24/VOLUME 24

July 25, 2018

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THE LONG-TERM CARE HOMES PUBLIC INQUIRY

PUBLIC HEARINGS

--- This is Day 24/Volume 24 of the Public Hearings in the above Inquiry proceedings taken at the Elgin County Courthouse, Court Room 201, 4 Wellington Street, St. Thomas, Ontario, on the 25th day of July, 2018, commencing at 9:30 a.m.

BEFORE: The Honourable Justice Eileen E. Gillese, Commissioner

REPORTED BY: Deana Santedicola, CSR, CRR, RPR
& Olivia Arnaud, CSR

A P P E A R A N C E S:

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Linda Rothstein, Esq., & Denise Cooney, Esq., & Mark Sandler, Esq.,	College of Nurses
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-- Upon commencing at 9:33 a.m.

MS. JONES: Good morning, Commissioner.

THE COMMISSIONER: Good morning.

MS. JONES: We will start this morning with the continuation of Ms. Coghlan's examination.

THE COMMISSIONER: Yes, thank you.

THE WITNESS: Good morning.

THE COMMISSIONER: Good morning.

ANNE COGHLAN; Under Prior Oath.

EXAMINATION IN-CHIEF BY MS. JONES (CONT'D):

Q. Good morning, Ms. Coghlan.

A. Good morning.

Q. I'm going to turn now, Ms. Coghlan, to 2014 and the receipt of the Caressant Care Mandatory Report.

A. Yes.

Q. And first I am going to ask a few questions about the College's process when it receives a Mandatory Report, so if I can ask you to turn to page 34 in your affidavit, please, and at 83 of your affidavit you state that:

"The initial review [of a report] is done by an Intake Investigator."

Correct?

A. That's correct.

Q. And here for the Caressant Care report, that intake review was done by Karen Yee?

A. That's correct.

Q. And Ms. Yee, as we will hear, is both a nurse and a lawyer?

A. Yes.

Q. What are the typical qualifications for people who do intake investigation work?

A. We have a range of experience on the team. We have lawyers, nurses, experienced nurses. From time to time we have had police backgrounds in members who are investigators. They all have a background that involves assessing information, analyzing information and have very strong communication skills.

Q. Thank you. And then at paragraph 83, you indicate Intake Investigators do not have the power to compel evidence, and by that do you mean that at the intake stage there is not a legislative authority to obtain evidence from anyone else?

A. That's correct.

Q. Okay, and you then state that:

"The Intake Investigator role involves a triage function, and requires the Intake Investigator to conduct a risk assessment and determine the appropriate

regulatory response."
Correct?
A. That's correct.
Q. And one of the possible regulatory responses would be whether or not to conduct a formal investigation of the report?
A. That's correct.
Q. And then at paragraph 84 you state that the Intake Investigator is assigned to the matter, makes inquiries into the report to gather further relevant information and assesses that information; correct?
A. Yes.
Q. And you state that:
"Typically, an Intake Investigator begins by reviewing the report received by the College [...]"
So in this case, it would be presumably the cover letter from Caressant and then that chart which we'll turn to later?
A. That's correct.
Q. And the member's history with the College, if any?
A. Yes.
Q. And then:
"The Intake Investigator will then contact the individual who submitted the report to the College [...]"
Correct?
A. Yes.

Q. And then determine after that the review of the report, the prior history and contact with the reporter, if we can call it that, whether any further steps are necessary?
A. Yes.
Q. And you have indicated, as I noted at paragraph 83, that the Intake Investigator role involves the performance of a risk assessment?
A. That's correct.
Q. And this is an assessment of what kind of risk?
A. Assessing the risk of harm to clients.
Q. Patients, essentially?
A. Patients, clients, residents, yes.
Q. Now, I'm going to ask you to turn within your affidavit to Exhibit "S", and this is document 69065, and it is called "College of Nurses of Ontario, Risk Assessment Tool"?
A. Yes.
Q. And the date is May 2016, and so it was as of that date that the College used this Risk Assessment Tool?
A. That's correct.
Q. And is this a document that was or a tool that the College commissioned someone to produce for it?
A. That's correct, in collaboration with College staff.

Q. Okay. And what was the purpose of the Risk Assessment Tool?

A. The purpose was to identify, based on our standards, what potential risks exist in the practice of nursing that could create a consistent way to assess incoming matters to the College.

Q. Okay, and if we turn to page 3 of this document and we scroll down to -- that is fine there. You see there it says "The Tool is designed [...]"?

A. Yes.

Q. Okay, so:

"The Tool is designed to support the Intake Team who receive, review and make inquiries [...]"

And then it says below that:

"Consistency and reliability will be achieved when:"

And essentially, different people use the tool and they get to the same result?

A. That's correct.

Q. And if we look at the tool, is it correct that we could summarize it as a series of questions which the Intake Investigator should ask him or herself when assessing risk?

A. Correct.

Q. Okay, and if we look at examples of what those questions are, if you turn to page 9, for example, and we see an

example under "Step 3: Previous Report/Complaint", and then under "Descriptor" there is questions like:

"At least one previous report has been filed [...] and action was taken."

And the if you go over to the right-hand side, there is an assigned point value?

A. Yes.

Q. Okay. And then essentially was the process or is the process of this tool that you answer the questions in this question under Step 3 and determine which category the particular report that you are considering falls into?

A. The particular category of risk, yes.

Q. Okay. So in looking at this, if there had been one previous report about the same issue, it would have an assigned value of 2 points?

A. Yes.

Q. Okay, and if there had been no prior reports filed about the member, it would have an assigned value of 1 point?

A. That's correct.

Q. Okay. And then just to get a sense of the other questions, and I am not going to go over all of them, but if you look at page 11, there is a question at the top of the page under "Experience levels" and it looks

like it is designed to give some latitude to a nurse who may be in a difficult work environment or may be a new graduate --

A. That's correct.

Q. -- compared to an experienced nurse?

A. Yes.

Q. Okay. And then under "Step 6", there is "Violence", so that if the issue in the report constitutes a violent act, that would have a certain assigned value, and if it does not constitute a violent act, it would have another assigned value?

A. Correct.

Q. Okay. And then over to page 12, there is categories to assess whether the issue caused or could have caused or the matter being reported caused or could have caused significant harm, whether it involved an intentional act or a reckless act?

A. Correct.

Q. Et cetera?

A. Yes.

Q. And then if you turn to page 14 and you look down at Step 12, what is Step 12 designed to consider or elicit and why?

A. This step is looking at the member's accountability and whether there is insight and accountability for the reported incident and steps have been taken to address any gaps in knowledge, or is there a denial or a hostility involved in the discussion of the

incident in the workplace.

Q. Okay. And from your affidavit, am I correct that between 2006 and March 2014, the Intake Investigator would use the Risk Assessment Tool by answering these questions on a computer spreadsheet?

A. That's correct.

Q. Okay, and so they would assign a -- they would answer each of these questions, and there would be an assigned point value generated?

A. That's correct.

Q. And then the Intake Investigator would print out that document?

A. Yes.

Q. Okay. And the printout, would it show what had been answered in each of these categories?

A. Yes, it would.

Q. And then with that printout, would there be a final score at the bottom?

A. Yes.

Q. And was it the intention to use that score to assist in assessing risk?

A. Originally, the hope had been that the tool would be sensitive enough to be able to use a score in a reliable way. That was not our experience.

And so over time, there was an assessment to look at the original goals of this work, and it didn't meet - and I just saw the language here that I can go back to

quickly - it didn't meet the common sense litmus test, the number didn't.

The actual assessment of risk and those categories did contribute to the consistent review and assessment of each file, so the inter-rater reliability was very high using the tool and the specific areas, categories of risk.

So that score, although it was calculated, did not -- I did not find that helpful in making my final decision, and over time, the investigators recommended that that piece of the tool was not as sophisticated as we had hoped it might be. And there was a decision to stop using the scoring but to continue to use the categories of risk.

Q. Okay. And so when the scoring was still being used, and then I'm going to ask you some questions following up on your answer, but when the scoring was still being used, was there a particular score, a particular number that would dictate a particular regulatory response?

A. No. It never reached that -- we never reached that level of confidence.

Q. And --

A. I should say that the one area where the score tended to be reliable was in assessing cases of incapacity, so that was the one area where my recollection is that there was a consistent high score.

Q. Okay.

A. But I don't remember a specific number.

Q. And when you talk about reliability, if I understand you correctly, there was, using this tool, there was good inter -- I think you said inter-rater reliability?

A. Yes, so there was consistency between investigators who used the same tool.

Q. Okay, so there was consistency between investigators in terms of the score that this tool would generate?

A. Not the score necessarily. The categories and the assessment of level of risk using these categories.

Q. Okay. And then you said at a certain point, and I guess this is leading up to March 2014, the decision was made to stop using this tool in terms of inputting the numbers into the computer?

A. That's correct.

Q. And so what was the process that started at that time, March 2014?

A. The process changed to what we call a memo, and the memo summarized the assessment of the categories of risk.

Q. And was the expectation that the memo would summarize the same categories of risk that we see in the Risk Assessment Tool?

A. Yes.

Q. So when that change happened, am I correct there would no longer be a

printout for you to look at as Registrar, but you would instead receive a memo commenting on the risk factors?

A. That's correct.

Q. So at the time of the consideration of the Caressant Care report, this was a few months after that switch had taken place; correct?

A. Yes.

Q. Okay. And so the consideration of that report was done using the memo process as opposed to the printout process?

A. That's right.

Q. Now, if you turn back to your affidavit, page 36, please, and at page 36 you indicate that after the Intake Investigator goes through the process that you have described, they read the report, they interview the reporter or call the reporter and they do a risk assessment, previously on the computer-generated printout and then after March 2014 on the memo, that they would then present the results of their consideration to an intake review meeting?

A. That's correct.

Q. And I'll ask Ms. Yee more about the actual intake review meeting process. Did you tend to go to the intake review meetings?

A. No, I did not.

Q. And at the intake review

meetings, to the best of your understanding, would the assessment of the Intake Investigator be presented?

A. Yes, it would. I should say I didn't go on a regular basis. I may have gone once or twice to observe the process, because I do remember attending one, but I was not a regular participant in those meetings.

Q. And then if at the intake review meeting there is disagreement about the recommendation being made by the Intake Investigator, what was the process coming out of that?

A. So the process was that the memo that I received would reflect both the Intake Investigator's assessment and the recommendation coming out of the discussion at the intake review meeting.

And if at the intake review meeting they were not able to come to some recommendation, that would often then involve a discussion with the Director of Professional Conduct before a recommendation came to me.

Q. But it would be on some -- that sometimes you would get a memo that would show that there had been some disagreement about the recommendation?

A. Yes.

Q. Okay. Now, after, if you turn now to the bottom of page 36, which is paragraph 91, and here you have indicated that:

"After the Intake Investigator's

investigation and recommendation are reviewed, the results of the Intake Investigator's investigation, the report itself, [and] the member's history", and then over the page, "and the recommendation of the appropriate regulatory response are submitted to the Registrar", which is you, "for [your] consideration and determination of the [...] regulatory outcome"?

A. Correct.

Q. And just the use of the word "investigation", I just want to make clear, at this time, during this assessment phase, has a formal investigation been commenced?

A. No, it has not.

Q. So is it more of an assessment or triage phase?

A. Yes, it is, or -- yes, an assessment or a triage phase.

Q. Which may or may not ultimately result in a formal investigation?

A. That's correct.

Q. And in terms of what you would receive and the process, would the Intake Investigator or anyone else come to your office and present to you about their findings and their assessment?

A. Very occasionally the

coordinator and the investigator, or at times where there were very serious concerns, the director and the investigator would attend, but that would be very rare.

Q. Okay, so in general, it would be a paper review that was provided?

A. Yes.

Q. Okay. And then the paper -- you would receive a package of materials, essentially?

A. I would.

Q. And what was your practice in terms of what you would review in that package of materials?

A. So I would review the memo from the Intake Investigator, which includes a summary of the incidents that have come to the College's attention, a brief summary of the member's history with the College, registration date, where the member is currently working, if currently working, and then a summary of the concerns and an assessment of the risk factors that the concerns raise, as well as an identification of the relevant standards that relate to the incidents reported. And that memo also includes then a recommendation in regards to a regulatory action. So that is one piece of the file.

I also have in that file a copy of any interviews that the Intake Investigator has conducted, and I would review that. Those memos report discussions with the reporter.

I would also review the report itself, so the Report Form that the employer or facility operator has completed.

And where there is prior history, that information is also provided in the file, and I would review that.

And anything else, so very occasionally the member herself or himself will want to alert the College that they are aware that the College is receiving a report and will send in an email or a piece of correspondence, and I would review that.

So I would review the package that is presented to me.

Q. Okay. And in terms of the prior history, we know in this case that Ms. Wettlaufer had a prior file at the College resulting from the Geraldton incident?

A. That's correct.

Q. Okay, and so what would be in the file that you would have been provided with about that? Would it be the entire College file or a portion of it?

A. So I can't recall this specific review, and if available, and when I say "if available", sometimes we have to retrieve files from storage off-site, but most of the time the file would have been retrieved and I would have that attached to the file.

So my recollection -- you know, my assumption from reading through the file is that I did have the full file at the time, and

what I would check in there was what was the matter, the previous matter, and would have noted that there had been a finding of incapacity.

I would look at what contributed to the finding of incapacity, and what I would be looking for is, is there any connection between the concerns that arose at the time of the previous matter and the concerns that are presently being considered by the College. So I would be looking to see if there is any connection.

Q. And when you are doing this review, do you on occasion have questions or concerns as a result of what the Intake Investigator is putting to you or is recommending to you?

A. Occasionally, yes.

Q. And what would be the process if, for example, you had further questions arising from your review?

A. I would request a discussion with the Intake Coordinator because the Intake Coordinator has been part of the intake review process, and we would have a discussion so that I could understand what the discussion was at the intake meeting and --

Q. Could I just stop you there?

A. Yes.

Q. Sorry to interrupt. Is the Intake Coordinator the supervisor of the Intake Investigators?

A. In a sense, yes.
Q. Okay.
A. Yes, the Intake Coordinator provides oversight, support, expert advice, provides the orientation and mentoring of investigators and has an overview of all of the reports that are currently being assessed by the College and also has a good appreciation of how the College has addressed reports of a similar kind over time.
Q. Okay. So if you had any questions, you would consult with the Intake Coordinator?
A. I would, and if that individual was not able to assist, I would consult with the manager or the director.
Q. Okay. And were there occasions where you didn't necessarily have any questions; you just didn't agree with the recommendation that was being put forward?
A. Occasionally, yes.
Q. Okay. And then what would happen in that case?
A. A similar process. I would have a discussion to identify what my assessment was and what I was considering, make sure I wasn't missing something that the team had discussed or had observed in their assessment of the report, and then I would make my final decision.
Q. And ultimately, is it your final decision at the end of the day?

A. It is.

Q. And is it your decision in all cases of report, so every report that comes in to the College, you ultimately determine the regulatory response?

A. That's correct. That is in legislation that that is the Registrar's accountability.

Q. If you turn now in your document brief to tab 35, which is document 36848, this is the cover letter which attached the Caressant Care report; correct?

A. That's correct.

Q. And it appears from the date stamp that it was received at the College on May 1st, 2014?

A. That's correct.

Q. And Caressant Care is reporting in this cover letter that, in the second sentence:

"[Ms. Wettlaufer] was terminated due to a medication error which resulted in putting a resident at risk."

Correct?

A. Yes.

Q. And if you go behind the blue sheet, you will see document 36841, and this is the Caressant Care Report Form that was attached to the cover letter?

A. That's correct.

Q. And received, of course, on

the same date, May 1st?
A. Yes.
Q. Okay. And is this a -- or it appears to be a College-generated document, so the College provides this document for employers to fill out?
A. That's correct.
Q. And in terms of the process, how would an employer obtain this document? Is it on a website?
A. Yes, it is.
Q. And then can they complete it and submit it to the College electronically?
A. No, they can complete it electronically, and then currently they are required to print it and either fax it or mail it to the College.
Our technology system is not yet at the stage where the document can be submitted online. That is in process.
Q. Okay, so they can access it and type into it online, but then ultimately they need to print it and mail it or fax it to the College?
A. That's correct.
THE COMMISSIONER: And just to put that in the context in time, was that the same situation that was available in 2014 and now?
BY MS. JONES:
Q. Ms. Coghlan, that was the same in 2014; correct?

A. That's correct.
Q. And it says -- it appears to be a five-page document; correct? If you look at the --
A. That's correct.
Q. Okay, and so what would an employer do if they wanted to provide more information?
A. They would duplicate pages that are part of the tool or they would attach additional pages that they generated themselves in, you know, a Word document or --
MR. GOLDEN: Commissioner, I rise.
I am not sure how this witness, given what she has said her knowledge of this process is, can say what employers would do. I mean, she hasn't investigated that. She hasn't talked to the employers. This is pure speculation on her part about what they would do and what they might attach.
MS. JONES: Commissioner, Ms. Coghlan has indicated that she would review as part of her process the reports that came in to the College, so she would, of course, through that process have experience in determining what the process was when an

employer had more information or what it could be.

THE COMMISSIONER: I think the question and answer are speculative as it is. If you want to rephrase your question as to whether she had any experience of whether there were at that time in 2014 either instructions about this issue on the website or in the document or in some other fashion or whether or not she actually physically had seen employers who had dealt with this in some other way, you can do it that way.

BY MS. JONES:

Q. Sure. Ms. Coghlan, in 2014 were there instructions provided by the College about what to do if an employer needed more space on the form?

A. I can't recall if there were specific instructions about whether an employer needed more space. However, I do recall it was not unusual to receive reports from employers that included more than five pages and that included pages that were not the College's form.

Q. Thank you. Ms. Coghlan, do you today have any recollection at all of considering the Caressant Care report?

A. I do not.
Q. And am I correct that it is most likely the case that your first involvement with this report would have been after the assessment process by the Intake Investigator, after the intake review meeting and when you received the package of materials?
A. That's correct.
Q. And based on your evidence about your standard practice, do you believe that you would have reviewed the memo, which we'll turn to in a moment, prepared by Ms. Yee providing her summary and assessment?
A. I do.
Q. And do you believe that you would have reviewed the memo of the interview summary with Ms. Crombez?
A. Yes.
Q. And do you believe you would have reviewed the Caressant Care report itself?
A. Yes.
Q. And then in terms of the fitness to practise file, you described your general practice. Given this file, what we know about this file, do you have any belief about what in particular you would have reviewed within the fitness to practise file?
A. Well, I certainly would have reviewed the summary information that the investigator provided, and I can't independently recall, but I very likely would have looked at the decision of the Fitness to

Practise Committee.

Q. Okay, and the summary that the investigator provided, that would be the summary within the memo?

A. That's correct.

Q. Okay. So if we turn to the memo itself, would you have, in reviewing this memo -- or this report, I should say. We are looking at the Report Form from Caressant, I apologize. You should still be behind tab 35, behind the blue sheet. Would you have reviewed each of the entries in turn?

A. I believe so, yes.

Q. So I'm going to ask you to turn on page 4, please, to the first entry which is dated March 20th, 2014?

A. Yes.

Q. And we see under "Employer Action" that it says "Termination", so would you have understood this to be the termination event?

A. Yes.

Q. And in terms of the incident, is it fair to summarize the incident that you would have reviewed as Ms. Wettlaufer administering insulin to a resident that belonged to another resident and that it was a different kind of insulin that she administered?

MR. GOLDEN: Commissioner, I need to understand where this line of questioning is going.

We have already established through the evidence that this witness has no recollection at all of ever seeing this form. The only basis for her evidence that she might have seen the form is that that was the usual process, but she doesn't remember it.

We have a 54-page affidavit that was submitted. Nowhere in that affidavit is it suggested that she actually is going to review the form, is going to have some views on it or opinions about it.

Everything in relation to this form we anticipate from the witness statements is going to come from Karen Yee.

We also had advanced notice from the College going back to April about their intention to call this witness to give evidence. Nowhere in those notices does it say that she is going to comment on the contents of this and have some view.

So other than the fact that the witness says there was a process and that likely she would have seen the form, there is no basis

for her now commenting on the specifics that has been established, as far as I can see. That is my concern.

THE COMMISSIONER: Just before you -- and I will give you time. Just before you sit down, Mr. Golden, speaking for myself, obviously it is a critical aspect of this Inquiry as to why she did what she did because, ultimately, as I understand the legislative scheme, it was up to her as Registrar to determine, for example, whether or not this was fully investigated and they were content with the telephone conversation with one person who didn't even have the report in front of her.

So I understand what you are saying about the affidavit evidence. Obviously we have all reviewed it carefully on this point.

I am not sure that I understand your objection to questions being put to this witness about this matter so that we have the fullest understanding of, not speculatively, but what she did and why.

So help me understand why this line of questioning would not be proper by --
MR. GOLDEN: The concern is exactly for the reason, Commissioner, you have just alluded to. It is entirely speculative. The witness has said she has no recollection of receiving the form. We don't even know, because we haven't heard yet from Karen Yee, nor is there any evidence in the thousands of pages that the College produced that there was a file put together and what the contents of that file were for this particular witness.
So she is now looking at it and today saying, I might have read this; I might have thought that. There is no basis for this evidence other than the fact that we have heard her say she reads the recommendation, she reads to see whether the committee below had any concern about it, and that she would also typically read the form. But that is the extent of it.
THE COMMISSIONER: Let me hear first from the College, and then

I will hear from you, Ms. Jones.
MS. ROTHSTEIN: Well, thanks very much, Commissioner. I am sort of new to these debates, so perhaps I am not up to date on your thinking and the thinking of others, but I approach the issue in this way.
First of all, I think there has been adequate notice given to our friends that this was always part of the College's file, and the entire file has been produced. It has been available for everyone to review from the outset. And it is in our notice of documents that this was going to be the subject of questioning.
It actually never occurred to me that there would be any objection taken to this part of the evidence.
Secondly, what you --
THE COMMISSIONER: Sorry, is there anything specific in the affidavit --
MS. ROTHSTEIN: Not anything specific in the affidavit because we knew it would be the subject of evidence. I don't think that any of us understood

that the affidavits were to be an exhaustive review of the evidence the witnesses would give. At least I didn't.

THE COMMISSIONER: It is not meant to be exhaustive.

MS. ROTHSTEIN: Yes, and the summaries were given as well, which clearly deal with this.

THE COMMISSIONER: But the summary statements I don't have; the summary statements are not available to the public; and the summary statements are not available for the purposes of cross-examination according to our rules.

MS. ROTHSTEIN: Oh, I understand that. I am suggesting that my friend -- from the fairness perspective, I think my friend will have notice about what this witness was intending to say. So let me deal with the other point that Counsel makes.

And I think it is important, Commissioner, to understand that this witness clearly did review this material. There is no doubt about it. She just doesn't have an independent recollection of her precise

thinking around it any more to offer.
THE COMMISSIONER: I think she said she has no recollection of the report. That is --
MS. ROTHSTEIN: No, no, I think that is an unfair characterization of what she said.
THE COMMISSIONER: All right.
MS. ROTHSTEIN: She clearly signed it. She clearly signed off on it. She knows she reviews all these documents. That is her standard practice. That is a common feature of the way anyone in this day and age will review multi-documents over time.
THE COMMISSIONER: Okay.
MS. ROTHSTEIN: So I don't think it is fair to say that there is any doubt that she reviewed it. The only issue is what her thought process was at the time.
THE COMMISSIONER: Right, but can I have a read-back on this issue from the transcriptionist, please? I have the words: I have no independent recollection of this report.
MS. ROTHSTEIN: Independent

recollection, correct.
THE COMMISSIONER: Right.
MS. ROTHSTEIN: Right, but that isn't the same thing, in my respectful view, Commissioner, as saying that she didn't actually see it. She is telling you --
THE COMMISSIONER: No, no, I don't think there is any doubt that she saw the report.
MS. ROTHSTEIN: That was my point.
THE COMMISSIONER: She made a decision.
MS. ROTHSTEIN: Yes.
THE COMMISSIONER: Okay.
MS. ROTHSTEIN: Okay, that was the point I was trying to make, Commissioner.
So I think you are in the situation where this isn't a trial. This is a Public Inquiry, and you need to get to the bottom not only of what she saw and what she remembers. You actually need to get to the bottom of what the College does and doesn't do and what it views as important and not important and how, going forward, you are going to make the appropriate

recommendations about what should be contained in termination reports and what shouldn't be.

And with the greatest of respect, it seems to me that public inquiries take a bigger view, therefore, of the extent to which questions can be put to witnesses that have some hypothetical or perhaps, to use my friend's language, speculative aspect with a view to getting to the systemic issues in the case.

And this case isn't simply about whether or not Ms. Coghlan can remember what she said and what she didn't. This case is, more importantly, about from a systemic perspective, Commissioner, about how the College does this process and how, frankly, Ms. Coghlan, who is one of the foremost nurse regulators in our country, approaches issues like this.

THE COMMISSIONER: Well, we have had that. I don't think there is any question --

MS. ROTHSTEIN: But I don't --

THE COMMISSIONER: But I need to

hear from you specifically about the concern that Mr. Golden raises.

Mr. Golden says nothing specific in the affidavit so that they could get -- that he could get prepared for it, effectively.

We have heard about the process. His concern is that when we start to talk about and hear evidence on the report and there is no independent recollection of it, his concern, as I understand it, is about the nature of the way in which the questions were being put, which was to suggest that she had -- that she could tell us today this was my assessment of it.

MS. ROTHSTEIN: Yes.

THE COMMISSIONER: So I take fully - and I am happy to go on - but I take fully the need for the questions to be put to this witness about her handling of the report.

MS. ROTHSTEIN: Right.

THE COMMISSIONER: She had ultimate responsibility for it, and it was as a result of her decisions that the process unfolded with Elizabeth

Wettlaufer as it did in relation to this.
I think, as I understand it, it is this question of trying to suggest that we can now know what was in her mind or how she assessed it if she has no independent recollection.
MS. ROTHSTEIN: Okay, well, Commissioner --
THE COMMISSIONER: And just a second. Am I right in the way I understand your question?
MR. GOLDEN: Yes.
THE COMMISSIONER: Or your objection.
MR. GOLDEN: Because what we are doing is we have no notes that were taken contemporaneously to assist the witness in refreshing her review and we --
THE COMMISSIONER: Just a second, because we need to go a little bit in turn here.
Am I right about the basic nature of your objection to it?
MR. GOLDEN: Yes.
THE COMMISSIONER: Is to try to figure out now what her thinking process was on it when she doesn't have --
MR. GOLDEN: Correct.

THE COMMISSIONER: All right.
MR. GOLDEN: And then to hear that for the first time on July the 25th, you know, in this context.
THE COMMISSIONER: Okay, all right. So it seems to me that there are a few things.
Firstly, if I have to rule on this, I will rule.
But the question, it is legitimate and it is important for this Public Inquiry that we allow Commission Counsel to put the nature of the questions that she is to this witness.
We also have to be careful to guard against - my words, not anybody else's - but looking back and speculating about what might have been in her mind.
I mean, the witness can talk about her process, which she has, and the witness can say what, on her reading of it, she thinks the significance of the documents were. But we don't lead on questions where we don't have an evidentiary basis, and the evidentiary basis we don't have is as to anything apart from what was in the report.

With this in mind, what I would propose is this. I think that counsel should get together and talk about the nature of the questions so that we don't engage in lots of question, objection and so on, and see if we can come up with a bit of a framework about the nature of the questions; and if you can't, where you agree, where you disagree, and then I will rule on it, because I have no doubt that with the level of experience and expertise in this room, that you guys can come up with a series of at least areas of questions and approach to questioning that is acceptable. So I didn't mean to cut you off.

MS. ROTHSTEIN: Not a problem, Commissioner.

THE COMMISSIONER: All right.

MS. ROTHSTEIN: If I can just suggest that, yeah, I think that makes great sense. It may just be that we need to be careful about the way we frame questions, if that is your concern, and that is not problematic and well understood. I mean, from my perspective, in

terms of the kinds of questions I would be asking of this witness, it would be based on your experience, how would this kind of information likely have been treated by you, that sort of question, which isn't suggesting that she has an actual independent recollection that she is now proffering to the Commissioner.

THE COMMISSIONER: Well, I fully expect that the College is going to stand after Ms. Jones is completed and ask questions, and so it may be that if we put this together, the concerns and the two sets of questions, then -- you know, and it doesn't matter who puts it.

But have I -- is there anything else in terms of a substantive point that I need to hear from you on before I sort of I think recess and allow some time for discussion on this?

Just let me deal with the primary things and then -- okay, so nothing else.

Ms. Jones, did you have any point to raise about this that we have not already heard from

either Mr. Golden or Ms. Rothstein?
MS. JONES: Yes, I did, Commissioner, and it is just this, that the affidavit was clearly intended to disclose the policy and structural issues with the College, that was disclosed to all counsel. And there was also an extensive witness summary that was produced which is not for use in the Inquiry but is for use in disclosure about the types of evidence that the witness would be asked, and all the participants were aware of that for some time, that the affidavit evidence was intended to be the big overarching structural evidence and that the factual evidence that we would then receive from the witnesses would be based on the topics in the witness summary, and that is consistent with the Inquiry's rules.
THE COMMISSIONER: Okay, where in the rules do you see that statement or in the correspondence? I would like to see that. I have not seen that

statement of --
MS. JONES: Which statement in particular?
THE COMMISSIONER: You have described a difference in the witness summary statements and the affidavit materials.
MS. JONES: No, what the rules provide, Commissioner, is that the areas of examination, the topics for examination will be disclosed in a witness summary or in a statement of anticipated evidence which we did in the form of a witness summary.
So that the topics of examination --
THE COMMISSIONER: Okay, I wrote the rules, so just help me, because I think that there is a difference of view as to what the point of that is.
Where is my rules? All right.
MS. JONES: So Rule 43, Commissioner.
THE COMMISSIONER: Yes, can you pull that up? Oh, actually -- yes, you are going to have to pull it up on the screen.
MS. JONES: I'm not sure if we have it electronically.
THE COMMISSIONER: Anyway, okay,

read me out the rules.
MS. JONES: Rule 43 provides that:
"Lead Commission Counsel shall give Participants reasonable notice of the witnesses the Commission intends to call at the Public Hearings, an outline of the anticipated areas of examination for each such witness, and, where practicable, a statement of the anticipated evidence of the witness."
THE COMMISSIONER: Okay, and what was the outline of anticipated evidence to be called through this witness?
MS. JONES: That was provided by way -- the way we did it, Commissioner, was by way of interview summaries and disclosing to the participants that the areas of examination would be consistent with the witness summaries.
THE COMMISSIONER: Okay, I haven't seen that document.
MS. JONES: No, that was -- it wasn't intended to be entered into evidence. It was intended to, in essence, provide disclosure to the participants

about the areas of examination that would be explored.

THE COMMISSIONER: Well, I can just say that, speaking for myself, that I see where some of the misunderstanding comes, because my understanding was that while interview summaries would be provided, that the affidavits were intended to be the primary basis on which evidence would be led here, because for example, I have not been given copies of the interview statements or the summary statements.

So I can see where the gap in communication arose there.

But in any event, what was your primary point, that you thought that the affidavits would address only policy and structural issues and that there would be other more pointed questions that would not be covered in the affidavit evidence but arising from the summary statements?

MS. JONES: Commissioner, the rules don't contemplate or require affidavits. Not all of the witnesses have affidavits.

So what the rules contemplate is that there will be disclosure of the anticipated areas of evidence.
THE COMMISSIONER: Exactly.
MS. JONES: Which there has been.
THE COMMISSIONER: Okay, but I think that that is different. When the rules were written, I wrote it saying that there would be an outline of the anticipated evidence. And instead what happened, I understand, was that summary statements or interview statements were given. That doesn't necessarily mean that it is an outline of the anticipated evidence.
MS. JONES: That was clarified, though, in advance, which was that the facts -- the questioning on the factual basis would be based on the witness summaries, so the topics in the witness summaries. So that effectively acted exactly in the same way, and that was disclosed to the participants in advance.
THE COMMISSIONER: Where is the document that shows that? Ms. Jones, the bottom line is

that it is important, that the line of questioning that you are raising, in my view, is important. It is important that we hear from this person. She was the Registrar. She was the person who ultimately made the decision that the report from Caressant Care would not be investigated.

So we are all agreed on that. The question is the way in which the questions are framed.

So it seems to me that there are two different issues.

One, is the line of questioning acceptable? And in my view, it is, and I have ruled on that.

But then comes where we have no independent recollection of the decision and the process and so on - and that is no criticism of the Registrar - how is it acceptable to explore her understanding?

And as I said, I have no doubt that if the affected counsel here and participants here put their heads together, you can do two things.

You can come up with the areas that are agreed on, the areas

that are not agreed on, and the way in which those questions can be approached that are acceptable to everybody.

And as soon as we have got that, if there is any areas of disagreement, (a) they'll be narrow; and (b) I can rule on them.

And so we should be able to advance this line of questioning in an orderly fashion, whether it is through you or through Counsel for the College.

All I was really asking you is whether in that framework there were additional considerations you wanted me to take into account.

And what I hear from you is you feel that, in a way, it was an unfair criticism to suggest that this line of questioning wouldn't come because clearly everybody should have known that from the interview statements and so on, and I hear you on that.

MS. JONES: Okay, and I am content to take a break and consult with the participants about the structure of questions

and to identify any particular issues about how those questions are going to be asked.

But I do think it is important evidence. We know that the witness did review these documents and make that determination, and in the absence of an independent recollection, the only thing the witness can do is advise as to what considerations she would have had in reviewing a report of that nature.

THE COMMISSIONER: Thank you for that.

Yes, and I am now going to hear from everybody else to inform this process.

MR. VAN KRALINGEN: Actually, I have nothing to add at this point. Thank you.

THE COMMISSIONER: All right, thank you.

Ms. Hughes?

MS. HUGHES: Yes, I just wanted to add one thing, that we are some 20 days into this hearing. In the Facilities portion, Ms. Hewitt as Inquiry Counsel put to a number of witnesses - Caressant Care, for instance,

the Director of Nursing, the Administrator - documents that you may recall they said, Oh, I have no independent recollection of them. And it was a number of them, memos, interviews, et cetera. Some they were authors of; some they were not.

And those documents, by the way, were not all in the affidavit. I just add that point too.

And nobody had an objection at that point that the witness could speak to and answer questions about a document that they said I actually have no recollection of.

And so I am puzzled why now we are getting bogged down in this phase of it, and I am concerned that we are going to have different considerations with respect to this phase than we had in the Facilities Phase where we had no problems with the witnesses being asked questions where they specifically said that we have no independent recollection, firstly; and secondly, where Ms. Hewitt didn't put them in the affidavit but entered them

afterwards and said, Well, you know, they were in the database or they were in the Overview documents or you had notice through the notes.

So I don't see any difference from what Ms. Jones is doing from what Ms. Hewitt was doing, so I just raise that to say we need to have consistency.

THE COMMISSIONER: Thank you. I think the consistency comes from my ruling that this line of questioning is acceptable.

What I am trying to do is streamline the process so that we don't have continual objections, depending on the nature of the question and the way they are phrased.

So I think now we have a framework within which counsel can have that discussion together.

But I totally take your point, Ms. Hughes, that where there are important documents, even if the witness does not have an independent recollection, that does not forestall or preclude questioning on it, so thank you for that.

Is there any other submission? Okay, in my view, the parties that need to have this discussion are largely Caressant and the College and Commission Counsel.

I don't mean to exclude other people, but they are sort of hard questions and need to bear down.

If I suggest that those parties now take 20 minutes to talk and identify the nature of the questions, the area and what ways in which they could be presented that would be acceptable to all, does that sound like a reasonable way to proceed?

MS. JONES: Thank you, Commissioner.

THE COMMISSIONER: Thank you. Oh, sorry, yes, are you trying to speak?

MS. FRASER: I am, Madam Commissioner, only to say, given the past experience with discussions of this nature, even if we are to sit in on where it is going, it might speed things up later to know what the agreement is as it unfolds, and

so --
THE COMMISSIONER: Everybody is welcome to sit in. I just wanted to try to focus the discussion amongst them.
I would expect that the parties would come back and say effectively, within the confines of my ruling, which is this area of questioning is acceptable, and understanding there is no independent recollection, these are the type of questions that we are going to put, and so on, so that there is a shared understanding of the nature and phrasing of the questions.
MS. FRASER: Thank you, Commissioner.
THE COMMISSIONER: Thank you.
So I think maybe 15 minutes is a bit ambitious, because sometimes it is more helpful to take a little bit of extra time and actually talk your way through it.
Shall we say for 11 o'clock? Everybody can take their break. We can take the morning recess at this time.
And if that is not enough time, you could see the CSO and she

will let me know, but otherwise, I feel confident that we can resume at 11 o'clock with that.
MS. JONES: Thank you.
-- RECESSED AT 10:31 A.M.
-- RESUMED AT 11:17 A.M.
THE COMMISSIONER: So have you been able to come to enough of an agreement that you are able to proceed with your questioning, Ms. Jones?
MS. JONES: Yes, Commissioner, the participants had a very fruitful discussion over the break and have agreed that I should proceed with the line of questioning as planned, and that Ms. Coghlan, having testified that she believes based on her practice that she would have reviewed the report, that she can and should be asked to comment on the report and, in particular, what her considerations would have been in reviewing the report based on her practice and experience.
THE COMMISSIONER: Thank you. I am glad to hear that.
Go ahead.
BY MS. JONES:
Q. So out of an abundance of

caution, though, Ms. Coghlan, I am not going to lead you as much through this report.

So let's resume with where we were before at document 36841, and that should be in your brief, Ms. Coghlan, at tab 35.

A. Yes, thank you.

Q. Okay. And when we left off at the break, we were at the entry on March 20, 2014, and if you can assist us with -- we appreciate that you do not recall reviewing this report, but reviewing it now today, what consideration -- what you would have taken from this information and what considerations you believe you would have had based on your experience?

A. All right. And you want me to speak to this specific incident?

Q. Yes, we are going to go through each in turn.

A. So I read this as a medication error where insulin was delivered to a patient that belonged to another patient, so in other words, the insulin intended for this patient was not delivered and instead the insulin intended for another patient was substituted.

Q. Okay, and --

A. And that --

Q. Sorry, continue.

A. And that there is a difference in the report between what the colleague, the day nurse reported. She

reported that she had told the member that the insulin was not available and had been ordered, and the member, Ms. Wettlaufer, saying that she did not remember hearing this.

So those are the key pieces that I would identify here.

And do you want to know what my assessment is of this particular incident?

Q. Yes, and first to have you confirm, based on this information, is it fair to say that what is being reported involved both what appears to be a medication error in the traditional sense but also a deliberate breaking of a medication rule in terms of the substitution of one resident's insulin with another?

A. I don't have enough information to determine that it was deliberate. I think we have information that the wrong insulin was chosen to deliver to a resident, and whether that was -- I view this, again, from the information that is here, I would assess it as a mistake, which is a medication error and is a breach of the standard.

Q. And based on your experience reviewing these reports, what would your considerations have been in terms of assessing risk looking at this incident?

A. Well, first of all, in this incident, I can respond to that, but I would look at the full report in determining the risk

posed.

This incident on its own I would assess as on a scale that we use which is low, moderate or high risk, and I would characterize it as low risk.

Q. And if you could move now, Ms. Coghlan, to the next incident, which is at January 28th, 2014. And can you describe what you believe you would have understood from this entry and then explain, based on your experience reviewing these reports, what your considerations would have been?

A. So in reviewing this incident, I see poor communication with a client and the nurse exercising her own -- using her own judgment to decide to give a medication outside of the allowable time frame.

I see that the employer has had communication with the member and has re-instructed the member about the approach to residents that is part of the standard policy of the facility. And I see that the resident was upset.

Q. And what do you believe, based on your experience, your assessment of this situation would have been?

A. So I would consider the therapeutic nurse/client relationship standard when looking at this incident and also observe that the employer has taken appropriate action.

Q. Over the page, please, Ms. Coghlan, now to page 6, and can you undertake

the same process with this entry, please?

A. So here I see the employer identifying an incident where the member did not follow proper policy and procedure, which resulted in an incorrect treatment of a hypoglycaemic episode, and that the charting was not sufficient or complete in this circumstance. I see that there -- that the resident was stable.

I also observe that the member reports that it was a busy night and that the employer has provided counselling. And in looking at this incident on its own, I would suggest that that was the appropriate action for the employer to take to re-direct the member.

Q. Okay. And what, if any, standards, for example, would be implicated in this incident?

A. Documentation standard, and then there is a general professional -- under those Professional Standards, on accountability, nurses are expected to follow workplace policies and procedures, so Professional Standards as well.

Q. And in terms of the assessment of risk, can you assist us with what your considerations would have been about the assessment of risk from this incident?

A. I would consider this low risk. It is certainly not no risk, but it is low risk, and that the appropriate intervention

is for it to be dealt with in the workplace, and that has occurred.

Q. Now, Ms. Coghlan, if you could turn to page 7 and the incident on December 19th, 2013, and walk us through what you would have appreciated from this incident?

A. So in this incident, the report is that the member gave two types of eye drops to a resident at the same time and disregarded the intervention or communication received from a family member.

I also see that the nurse has reported to the employer that it was a busy night, she was running late, and that she knows she shouldn't have done it.

And again, I would say that I would characterize this as a medication error, and that the nurse is identifying mitigating circumstances.

And I would also be mindful of my knowledge of long-term care settings and that it would not be unusual for a nurse to have a busy night and be running late. This is clearly a failure to meet standards and --

Q. And which standards in particular?

A. Medication standard, yes.

And again, I look at what action the employer took and would agree that that is appropriate action, and that would be my assessment of this incident.

I am trying not to get into how

I put them all together, so that would be my assessment.

Q. And in terms of your assessment of this incident, can you assist us, based on your experience reviewing these reports, how you would have assessed risk from this incident?

A. I would assess it as low. The nurse is acknowledging that it was inappropriate and is identifying that she knows she shouldn't have done it. So my assessment would be that there isn't a defensiveness or a disregard for the standard, but there is a failure to meet the standard.

Q. And over the page, please, to the incident of November 25th, 2013, and can you describe what you believe you would have understood from this incident and then go through the same process of advising, based on your experience considering these reports, what standards would have been implicated and what your assessment would have been?

A. In this incident, I am observing a number of things.

So the incident itself is that a urine sample was obtained. The member's responsibility was to test that through a test that is known as a dip test, so it is not going to a lab, but using a strip to test the urine, and that it was not completed and the urine sample had to be discarded because it was stale. So that is the incident.

I am also observing that it was the PSW who had the -- the member's response to the employer is that it was the PSW who had the idea to obtain a urine sample, and the member said she did not feel the doctors would do anything about it. That suggests to me that there is potentially some conflict between registered staff and unregistered staff over this incident.

And the employer's assessment indicates that work performance is not adequate and that other areas -- sorry, that this could, if there were further incidents, this would lead to further discipline up to and including termination. That is not uncommon for me to read that in a report where an employer has re-directed a member.

And then there is further examples of work performance not to standard; not doing assessments, processing and following up on doctors' orders and other work as required of registered staff is other information that is identified there.

Q. Okay, and in relation to that last element, based on your experience, Ms. Coghlan, what would your considerations have been in relation to the element that you just reviewed, the examples of work performance not up to standard, et cetera?

A. I would be looking at the whole report to see what those other examples were.

Q. Okay. So is it your evidence that you would have expected to see or you believe now -- I'm not going to ask that question.

Let's go to the next incident. So April 8th, 2013, on page 9, and if you can walk us through what you believe you would have understood with respect to this incident, Ms. Coghlan?

A. So this is an incident where medications were not given to a resident, and the resident was overlooked on two med passes, which is medication passes. That is the distribution of medications at an allotted time.

And it appears that - excuse me - that this is an example -- that the employer is identifying that the member did not follow proper electronic medication administration, drug administration practices. So those would be facility practices, and possibly as well as according to the College documentation standard.

I then look at the member's response to the employer, which is that she thought she had given them and that she is saying she does know how to give medication properly.

I would also be mindful again of the setting and the context, and my knowledge of long-term care settings is that there are many, many medications distributed to residents

and this is the kind of medication error that is very common. And it is also the kind of medication error that employers would typically deal with within this setting, both re-directing the nurse and also looking at the systems in place in the workplace to ensure that there are the appropriate supports for nurses to practice according to the standards.

Q. Ms. Coghlan, if you turn over the page now to page 10 and the incident of March 14th, 2013, which is the month prior to the last incident, and assist us with what you believe you would have understood with respect to this incident?

A. This is a medication incident as well, a narcotic being given but not signed for, and the member recalling later that she gave the narcotic - excuse me - the narcotic at the same time as she gave a Tylenol. And she didn't sign for it on the Medication Administration Record or on the narcotic sheet and gave the medication early.

I don't have any information about how early, and so that is a piece of information that is not particularly helpful in my assessment of that particular incident.

I also note that she acknowledges in retrospect, in responding to the employer's inquiries, that she did three things that contributed to the medication error.

And she received education on

proper medication administration as well as an employer sanction.

Q. And based on your experience reviewing these reports, Ms. Coghlan, what considerations would you have had in relation to this incident?

A. Well, one thing I would be looking for is I would look to see if there were any other narcotic issues that came out in the rest of the report and would want to determine whether there were other concerns involving narcotics or if this was simply an incident of a medication being given and not signed for.

Q. And why would that have been important?

A. Because narcotics are high-risk medications and they also -- issues with narcotics are often an indicator of a capacity issue with a nurse, so sometimes nurses who have substance use disorders are first identified through issues with narcotic administration in the workplace. And that is a high risk to patient safety, so it is in our risk assessment; it is one of the things that we are alert to.

Q. And in terms of your practice in assessing these reports and weighing that, whether or not you should be concerned about a narcotic issue, was it your practice to consider a member's prior history?

A. Yes, it was.

Q. And is it the case that if the member's prior history involved an incapacity issue, that might have some implications on your risk assessment?

A. It may if the incidents reported provided a concern that there was a similarity between the previous incapacity issue and the current report.

So this incident alone does not give me any indication of a link to a prior finding of incapacity.

Q. Okay, and why is that?

A. The -- it is a single narcotic. It is one medication, and it is not uncommon for nurses to miss documenting that a single medication has been administered when they are administering hundreds of medications in some instances.

And I don't see any other incident that tells me there is a trend or an ongoing -- a concern that always centres around the administration of narcotics; so for example, I saw eye drop administration, urine sample, those previous incidents that we have just walked through did not involve narcotics.

Q. Now, Ms. Coghlan, if you can turn to page 11, and in particular, the incident on February 12th, 2013, and if you can assist us with this incident, what you believe based on your experience you would have understood and what your considerations would have been?

A. So my understanding or my assessment of this incident would be that this is a failure to follow the proper procedure for medication administration and medications are left at the dining room table.

This -- part of my assessment would be through my experience that this is a very common happening in long-term care, and it is something that happens in a busy setting where there are, in many cases, only one registered staff available at the time who can very easily be distracted during medication administration. So for example, a patient can fall. The nurse is in the process of administering medication and is called away to deal with the fall and may inadvertently leave the medication at the dining table.

It does pose a risk to -- a potential risk to clients, and that is why it would be characterized as a medication error.

Q. And in terms of the level of risk, what do you believe your assessment would have been about the level of risk?

A. I would have assessed this as low, low risk, and again, that it was appropriately dealt with in the workplace.

Q. Over the page now, please, Ms. Coghlan, to page 12, and if you could assist us with what you believe you would have understood in relation to this incident and what you believe your considerations would have been?

A. This incident is a report of not taking medication refrigerator temperatures and vaccine medication refrigerator temperatures and narcotics not properly counted with the oncoming shift.

And then the response being that it suggests to me that there has been a recent change in the procedure for narcotic count and the member is indicating she forgot to take fridge temperatures.

So one of the things that I'm considering when looking at this incident is, again, in terms of a risk assessment, nurses in long-term care often are assigned by their employer activities that are not within the scope of nursing practice, and so that is an employer/employee matter and I would put checking fridge temperatures in that category.

And the employer has taken action on that, and that the employer has also ensured that there has been a review of the proper procedure for narcotic count and a review of their other policies and procedures in relation to fridge temperatures.

I am also at this point, I have been through a number of incidents in my review, because that is the way I typically review them, is from the most recent through the history, and I am seeing this as low risk and kind of questioning myself. So this was September 2012, and I am not really sure why an employer is reporting this to the College as a

serious concern.

Q. Which part in particular were you --

A. The fridge temperatures.

Q. I see, okay. And now, finally, to the incident at page 13, and this is an incident of August 29th, 2012.

A. And this is an example -- an incident, rather, of the nurse not assessing a resident when required. I don't have any other information about what the requirement was at the time, other than that the resident was not herself at the time. However, there was no adverse event.

And then I look at the member's response to the employer, and it tells me that she didn't follow through on assessing a resident and her reason was that she wasn't feeling well herself and that she has worked through the module on professionalism from the College's website on her own initiative.

Q. And when you indicated earlier that you didn't have further information in terms of this incident, is the College able to make inquiries if they feel that they need further information?

A. Yes.

Q. And do you know whether further inquiries were made with relation to this incident?

A. There was an -- during the intake process, the Intake Investigator would

make inquiries about the whole report, and so that is why I would be going to the interview summary to determine whether there was any additional information that would assist me in assessing the overall risk.

Q. Okay. And then finally, on the very last page, page 14, there is a final line in this report, and if you can assist us in the same way, please?

A. The final summary statement is that:

"There were other reports from staff that did not lead to discipline but were considered at [the] time of termination."

In the absence of any other information, I would interpret that to mean that the employer didn't feel that those were nursing issues, but rather issues to be dealt with within the workplace and could be things related to conflict between staff members in the workplace.

And then the next line is:

"These reports had to do with attendance [and] professional behaviour."

So that tells me that there may have been some labour relations -- human resource issues in terms of which are things that we see employers sometimes reporting, nurses not available for work or arriving late, those kinds of things.

Q. And what is it, based on this sentence, that would cause you to reach that understanding that it is a human resources issue?

A. I don't draw any conclusion. What it is telling me is that the employer has satisfied themselves that this information is not information that would assist the College in assessing the risk that a nurse's practice poses to residents.

And that is the assessment we count on employers to make, to determine the information that the regulator needs in order to form an assessment and determine an appropriate regulatory response.

MS. JONES: We just need a moment, Madam Commissioner, for the court reporter.

THE COMMISSIONER: Thank you.

-- RECESSED AT 11:48 A.M.

-- RESUMED AT 11:48 A.M.

BY MS. JONES:

Q. Thank you. Now, Ms. Coghlan, was it your evidence that you believe you would have also reviewed the interview summary between Ms. Yee and Ms. Crombez?

A. Yes.

Q. Okay. And if you can turn that up, please, that's at tab 39, and it's Document 36847. And I take it, like the report, you have no recollection of actually reviewing this memo?

A. At the time, no.

Q. Okay. So I'm just going to ask you, having a look at this memo now, if you can assist us with, based on your experience reviewing these reports what considerations you would have had and what assessment you would have made of the information contained in this memo or this interview summary, rather?

A. So one of the things I typically look for when reviewing the interview summaries is, is there additional information that has been gleaned through the interview with the employer that can assist the College in conducting the risk assessment?

And so as I work through -- first of all, we note she hasn't worked anywhere else, to the knowledge of this employer, since 2005, and that the employer is not aware of whether the member had any stressors going on in her person life that may have affected her practice.

So that statement is giving me additional information upon which to consider the previous health inquiry incident from 1995. And then there's no underlying issue or concern with the member again, so we're not getting additional information from the employer beyond the incidents reported.

In the next bullet, the employer relates that one time "a while back," so this is not a current recollection of the employer or a current experience of the

employer. It's not at a current point in time.

But a while back, she recalls that the member mentioned she was on medication for some mood-related or anxiety condition and that she had recently changed her medication, was having difficulty adjusting to it, and that that was the reason for an error that she made.

The reported incidents go back to 2012, and prior to 2012, the member worked in another section and that in 2012, the member started in a new section, only working evening shifts.

I'm assessing that we have a two-year period, roughly, here and that this director of nursing is commenting on the incidents that have occurred in that two-year period.

Q. Okay. And just stopping you there, in relation to the member mentioning that she was on medication or it being reported in this interview that the member referred to being on medication for some mood-related anxiety condition, that she'd had her medication changed and she was having difficulty adjusting to it, could those considerations or could that sort of information have had an impact in relation to an assessment of capacity for this member?

A. Well, on their own, no. Many nurses are on medications, and they have no impact on their ability to practice.

They may have a single incident,

as this individual identified, but what I'm also looking at is -- because incapacity is a current state. So I have to form the belief that a nurse is currently impacted by a health condition. And so I'm going back to the notes where the employer has reported that they're not aware of any stressors and no underlying issue or concern with the member.

So I'm satisfied that this one time a while back was indeed a one-time because there isn't any other additional information.

Q. And I think you were -- you had reviewed most of the top part of this, Ms. Coghlan, and I'm interested in what you believe your assessment would have been in relation to the incident about the UTI at the bottom of the page.

A. Well, this is an example of sloppy nursing practice that falls below the standard for the therapeutic nurse-client relationship, poor communication with the family, and again, I would look at this in relation to the incident in the employer report as well. But my assessment, looking at this, is that this falls below the standards.

Q. Okay. And which standards in particular would you have -- does this fall below?

A. Professional standards and the therapeutic nurse-client relationship.

Q. And then over the page, Ms. Coghlan, anything in relation to the

information at the end of the interview that you believe would have played a role in your assessment?

A. Yes, one of the things that I'm looking for is what is the member's response when gaps in practice are brought to her attention, and this is telling me that she was always upfront about her errors. She would say she didn't mean to make them. She never denied the incidents, always took ownership of them, and she accepted that she made a mistake.

And then the comment, "the member just never changed her practice" suggests, potentially, that this is an employer who is frustrated and has had enough with this sloppy practice, as I would characterize it.

There was no sustained harm to residents involved in the incidents, and I do look -- I look at that, but I also look at the potential risk of harm. So it isn't just whether it was sustained, which, in this case, it was not, but I also look at whether there was a serious or potential risk of harm with the practice described.

And that the member could be very pleasant with residents, that her focus was more being friends with her co-workers than working, and I see that as corroborating the statement at the end of the report where there had been complaints from her colleagues and other incidents that the employer had not detailed in the report because they related to

attendance and behaviour. And that she was always respectful and nice, but her practice never changed.

Q. And do you believe based on your experience reviewing these reports that you would have had concerns about the fact that Ms. Crombez was reporting the fact that the member's practice never changed when these issues were raised with her?

A. That does factor in. What also factors in are the practice setting and the -- whether there's any reported insight from the member.

Q. And now, Ms. Coghlan, if you can turn to Ms. Yee's memo, which is at tab 40 of your document brief, and this is Document 36833. If you can turn to the third page of that document first, please -- and if you go down a little bit more, please -- whose handwriting is that at the bottom?

A. That's mine.

Q. And so what does that handwriting indicate?

A. So there's the date upon which I've reviewed this file. I am indicating I agree with the recommendation from the intake investigator, and those are my initials.

Q. Now, if we look at this, back to the first page of this memo, do you believe that you would have reviewed this memo?

A. Absolutely.

Q. Okay. And if we look at the

very top, it says:

"Note: This memo to file has been done in lieu of Webart."

Can you assist us with what that means?

A. So these were the early days in this switching from the printed tool that we discussed this morning, and there were still some files that I was getting that may have been using that tool. And so this is the investigator just noting that this is the new format that I'm seeing.

Q. And we see that it begins with some background information about the member, and then under "Prior," is it fair to say that that is a summary of what would have been in the College's Geraldton file?

A. That's correct.

Q. And when earlier you gave evidence that you would have obtained information about that incident from this memo, is this the information you would have received?

A. Yes. And now that I see this, I am confident that I did have the original file because the investigator would have had the original file in order to complete this assessment, and if the file was available, I received it.

Q. And as part of your assessment of risk, would you have considered the information about this prior capacity

issue?
A. Yes, I would.
Q. And then we see that there is a summary, then, of the incidents?
A. Yes.
Q. And we've just gone through those; we won't do that again. And then there's a reference on page 2 to the fact of the interview with Ms. Crombez, which we've looked at, and there's then a section entitled "Assessment," correct?
A. Yes.
Q. And in the assessment section, Ms. Yee has written that:
"The nursing issues mainly concern the member's medication administration skills and, to a lesser degree, the member's TNCR skills."
What's TNCR?
A. TNCR is the therapeutic nurse-client relationship.
Q. And having refreshed your memory of looking through the report and the materials, do you agree that those are the standards that are implicated in the report?
A. Yes.
Q. And then Ms. Yee has indicated from February 2013 to March 2014, the member made seven medication errors, and then she provides examples of those medication errors, correct?

A. Yes.
Q. And then Ms. Yee indicates that there were two incidents where the member's interactions, communications with either resident or residents' family made them upset, and she summarizes those as well?
A. That's correct.
Q. And then -- and she says, I apologize, at the end of that first paragraph on that page:
"There was no sustained harm to the residents"?
A. That's correct.
Q. And then she goes on to refer to the fact that according to the director of nursing:
"The member always took ownership of her errors,"
and having reviewed the report again and the materials again, is that your view as well?
A. Yes.
Q. And then there's the reference to a mood or anxiety condition?
A. Yes.
Q. And you've given evidence about what consideration that would have had.
And then in the last paragraph above "Recommendation," Ms. Yee says the member's prior occurred 17 years ago. And the member's "prior," what is that?
A. That is the incapacity

proceeding with the College --

Q. And that --

A. -- in nine -- resulting from the 1995 report from the Geraldton Hospital.

Q. Okay. And she writes: "Although the member's prior is related to health, the information in this current report does not indicate that the member's health is a current issue."

A. And I agree with that.

Q. Okay. And why do you -- what's the basis of your agreement with that?

A. There's no indication that there is an ongoing health issue that is negatively affecting her practice.

Q. And in terms of your experience in looking for that or considering that, what types of factors would you have considered in determining whether or not there was an ongoing health issue?

A. The only way in many way -- I guess I need to say the majority of ways that the College gets information about a current health condition is through the employer. So employers are very attuned to and are in the best position because they are observing practice at the point of care, and the College relies on the report of an employer.

And my assessment of the information that I had indicated that the

employer had lots of opportunity to identify whether there were any other concerns, and there is no information to suggest that.

The one reference to "sometime a while back" was not an indication of a health condition that was currently having an impact on practice and did not raise an alarm.

If there'd been other information that, you know, the member -- so that last incident, if the member -- at that point in time, which was close to the time of the report that the employer had indicated, I think there's -- that her own health is continuing to be an issue, something like that, that would have prompted further inquiry.

Q. And what about in that regard the fact that two of the incidents involved narcotics?

A. There is no indication of narcotics being misappropriated or narcotics going missing in the workplace.

And as I said, we look carefully whenever we see -- whenever I see the word "narcotic," I look carefully to see what it is in relation to, and in these incidents, they are not associated with any systemic workplace concern that their narcotic counts are always off or whenever this member is on, there's a problem with narcotics missing. Those kinds of things are the kinds of things that I would be looking for.

Q. Okay. And then under

"Recommendation," it says "bank with notice," and "Review: PS meds." If you could explain what "bank with notice" means?

A. All right. So the first consideration that I make when conducting -- after conducting my assessment is, is there action warranted? Should the College -- does the College have information that warrants some regulatory action? And my assessment in this case would be yes, and that coincides with the assessment of the investigator.

The specific recommendation "bank with notice" is an internal term that we use, and it refers to the fact that the member needs to be notified that the College has this information, notified of the concerns that the information raises, and directed -- reminded of their professional accountability, and then directed to review standards that relate to the incident.

And in reminding them of their professional accountability echoes back to their accountability for continued reflection and identification of opportunities to improve practice.

The letter is signed by me, and it is intended to be remedial. It has language that is consistent with a remedial approach; however, I can tell you that if you were to ask a nurse who received that letter, they would consider it a warning. So nurses take very seriously receiving a letter from the College,

and in this case, my overall assessment of all of the incidents suggested that this approach was the appropriate level of regulatory action.

Q. And after you signed your agreement with this recommendation, Ms. Coghlan, a letter was then sent to Ms. Wettlaufer, correct?

A. That's correct.

Q. Okay. And you referred to that letter that's at tab 41, Document 36840, and is this the letter that you were referring to?

A. Yes, it is.

Q. Okay. And in this letter, in the first line of your letter, you indicate that the College has received information from Caressant Care, correct?

A. That's correct.

Q. Okay. So would this be the first advice or notice to Ms. Wettlaufer of this matter?

A. Yes, it would be.

Q. Because I noted in the file there's no response from Ms. Wettlaufer about the incidents.

A. No. This went through the intake process of assessment, and there was no interaction with the member.

Q. And in the second paragraph, there's a paragraph about Ms. Wettlaufer's prior history with the fitness to practice committee. Why is it the College's practice to

include that sort of information, if that is the College's practice?

A. It is the College's practice and that is because we are being very transparent with members about the fact that the information the College has about them throughout their career is retained on file. And you will note at the end of my letter, I also advise her that this current matter is being kept on file.

So it is reminding members of their accountability and the role of the College in ensuring that they are aware of their accountability to practice safely.

Q. And then in the next paragraph, you point out that as executive director, you have the discretion to appoint an investigator to investigate Ms. Wettlaufer's conduct?

A. That's correct.

Q. If you believe on reasonable and probable grounds that she had committed an act of professional misconduct or that she was incompetent, and that you determined that the appointment of an investigator was not currently warranted, correct?

A. That's correct.

Q. Okay. So just to be clear, on the basis of the information you had, one option you would have had or you could have taken would have been to appoint an investigator and to have conducted a formal

investigation?

A. That is an option. As I indicated, the risk assessment guides the level of regulatory force, if you will -- I say regulatory action -- that is appropriate and proportionate to the risk that is posed by the member's practice.

Q. Okay. And you've gone through in relation to individual incidents what your risk assessment was. Can you assist us based on your experience reviewing these reports what you believe your risk assessment would have been as a whole, the entire picture from the information that you received?

A. My assessment is that this is a nurse who over a period of time had a number of what I call low-risk incidents that suggest sloppy practice, and there also is a suggestion that, for whatever reason, the nurse is not responding to this employer's expectations and direction and that the nurse is -- I'm sorry, now I'm losing what your original question was. Was the assessment -- overall assessment of risk?

Q. Yes.

A. Yes, thank you. And that the nurse needs to be reminded of her professional accountability and the College's expectations.

Q. And you've referred to "sloppy practice." Do you believe that it was your assessment that Ms. Wettlaufer's practice overall was sloppy?

A. I think there were examples of sloppy behaviour. There were also examples of poor communication and what we -- medication errors.

Q. And do you believe, based on your experience in reviewing these reports, that you would have had any concerns about Ms. Wettlaufer's ability to administer medication safely?

A. No. When I looked at the medication errors in total, they were typical of medication errors that are low-risk and are amenable to remediation, review of standards, and attention to one's professional accountability.

Q. And again, based on your experience reviewing these reports, do you believe it would have been your impression that Ms. Wettlaufer was practicing within the standards of the profession?

A. She was practicing at the low end of the standards, I would say, and that there were examples where she didn't practice according to standards, and that is not uncommon in the reports that the College receives. I think the employer used the term that her performance was "inadequate" at one point, and so that was a characterization of her work.

Q. Ms. Coghlan, turning now, and we'll do this very briefly -- this information is in the Overview Report, but for the benefit

of the public -- to the College's process upon learning of Ms. Wettlaufer's confession.

Am I correct that in September 2016, the College was contacted by a physician at the Centre for Addiction and Mental Health and advised of Ms. Wettlaufer's confession?

A. That's correct.

Q. Okay. And had the College ever addressed or dealt with a matter of this scale before?

A. No.

Q. And am I correct that the College, on September 30th, made an emergency appointment of investigators under the Code?

A. That's correct.

Q. And were any terms, conditions, or limitations placed on her certificate of registration at that time?

A. At that time, they weren't, but the intake investigator assured herself that the member was not in a position to practice. She was hospitalized --

Q. Okay.

A. -- and under police guard.

Q. Okay. And could any terms, conditions, or limitations have been placed on her certificate at that time?

A. Not under our legislative scheme, no --

Q. Okay.

A. -- at that point.

Q. At that point. And has that legislative scheme changed?
A. Yes, it has.
Q. And so now under the current legislation, if information of this sort comes to a regulator's attention, can terms, conditions, and limitations be placed on the certificate of registration of the member?
A. Yes, they can.
Q. And is that on an emergency basis?
A. Yes.
Q. And --
A. We could do what we call an "interim suspension," and that would show on the public register.
Q. Okay. And in terms of the public register, if you can turn to tab 43 of the document brief, which is Document 71068, and is this a printout from the public register?
A. Yes, it is.
Q. And this printout shows that Ms. Wettlaufer was not entitled to practice?
A. That's correct.
Q. And that she had resigned?
A. That's correct.
Q. And do you know when the College's public register was updated to reflect that information?
A. I believe it was October 14th of 20... What year are we here?

Q. 2016.
A. 2016, thank you.
Q. And how do you determine a that? I can't see a date on the document.
A. That's my recollection. It's not indicated here from our College records that the date -- that the record was updated was October 14th.
Q. I --
A. The date of her -- sorry.
Q. I think that's helpful. So from the College record, it's your understanding that that's the date?
A. That's the date that the public register was updated, yes.
MS. JONES: Okay. Thank you, Ms. Coghlan. I have no further questions.
THE WITNESS: Thank you.
THE COMMISSIONER: Thank you very much, Ms. Jones.
MS. ROTHSTEIN: So I believe that Madam Registrar has a brief to hand up to Ms. Coghlan and the Commissioner.
THE COMMISSIONER: Thank you.
THE WITNESS: Thank you.
CROSS-EXAMINATION BY MS. ROTHSTEIN:
Q. So, Commissioner, Ms. Coghlan, I just want to begin by touching on a few of the points that you gave evidence

about yesterday with Commission Counsel, particularly at the end of the day where there may have been a little lack of clarity in some of the evidence that you gave.

And I want to talk about the Geraldton events that led to the College's incapacity fitness to practice investigation back in 1995. You remember giving evidence about that, Ms. Coghlan?

A. Yes.

Q. So you were also asked at the end of your evidence to talk about the kind of information following a fitness to practice finding of incapacity that makes its way to the public register, and I want to ask you to go to your affidavit, if you would, paragraphs 52 and 53, where that is set out in some detail.

You'll find paragraph 53 at page 23 of your affidavit, Ms. Coghlan.

A. Yes.

Q. And it reads that:

"The following information about Ms. Wettlaufer would therefore have been available to the public on the public register at the following periods of time,"

and this is after there has been a finding of incapacity.

So you make the note there, and you indeed told the Commissioner about this that for a year from May 9th, 1997, to May 9th, 1998, the restrictions that were imposed on her

certificate and what those restrictions were. You remember testifying about that?

A. Yes.

Q. But with respect to the incapacity finding itself -- leave aside the issue of restrictions -- am I correct that even back in 1995, that was posted on the College's register in accordance with the legislation for a much longer period of time?

A. Yes, you are correct. There have been so many changes to the register, I apologize if my response was misleading.

Q. Okay.

A. At that period of time, I believe that the legislation indicated that that -- the fact of the incapacity finding would stay on for six years.

Q. So that for a full six years, even after the expiry of the terms, conditions, and limitations any employer who chose to search the public register would have learned that Ms. Wettlaufer had indeed been found to have been incapacitated by the fitness to practice committee?

A. That's correct.

Q. All right. And I understand that in 2009, so we'll come to that change. That six-year limitation changed; is that right?

A. That's right.

Q. And what is it since 2009? How long is the fact of the incapacity finding

on the public register?
A. It stays on permanently.
Q. It stays on permanently.
A. Yes.
Q. That's helpful. And then, Ms. Coghlan, you mentioned in response to Ms. Jones's questions yesterday that while there isn't an actual statutory requirement that members self-report health issues to their regulator that there were ethical standards that require nurses to remove themselves from the practice where they viewed their health as having some impact on their practice; you remember mentioning that?
A. That's correct.
Q. And I think you were at a loss to identify the specific ethical standard.
And so, Commissioner, really just to help you as to where to find it, it's part of the Overview Report, and I believe we've given you a paper copy of the Ethics Practice Standard. And if you look -- and, Ms. Coghlan, I hope you have one too --
A. Yes.
Q. -- I believe that we're talking about -- so it's 55053, and I believe that we're looking at page 10 in the top left-hand corner and under "Behavioural Directives"?
A. Yes.
Q. And that bullet point reads that:

"Nurses demonstrate a regard for maintaining commitments to themselves by recognizing their physical and mental limitations and the impact their own health has an their ability to provide safe, effective, and ethical care"?

A. That's correct.

Q. So I understand that the notion is that quite apart from the legislative regime, the College creates a number of ethical obligations for nurses, right?

A. That's correct.

Q. And broadly speaking, those ethical obligations require nurses to be self-reflective not only about their practice but also about their health?

A. Absolutely.

Q. And to take appropriate action in those circumstances, right?

A. That's correct.

Q. And, Ms. Coghlan, just so those who aren't familiar with some of the language that you use repeatedly in your evidence and is of course second nature to you, that's what you talk about when you talk about professional nurses having responsibilities to be accountable; is that right?

A. Yes.

Q. Okay, thank you. And I also want to talk to you about another interesting

feature of the evidence that Commission Counsel asked you about yesterday dealing with registration and the challenges of the College's oversight of the registration process.

And you'll recall that you told Commission Counsel yesterday that the registration process is a very significant undertaking of the College because you have 10 to 13,000 nurses, is that right --

A. That's right.

Q. -- that are applying for licensure; is that right?

A. Yes.

Q. Per year?

A. Yes.

Q. Okay. Significant amount of work involved in doing that, I take it?

A. Yes.

Q. Okay. And you described again for Commission Counsel the kinds of things that the College currently does independently verify, and there's a number of things that the College goes about independently verifying before it actually provides a certificate of registration to a nurse?

A. That's correct.

Q. But she pointed out, and fairly, that all of the features of the license application that say, no, I haven't been found guilty of professional misconduct somewhere

else in the world; no, I haven't engaged in any act of dishonesty, that sort of thing, you do not independently verify apart from what you can do by a criminal records check. Have I got your evidence correctly?

A. That's correct.

Q. All right. So can you assist the Commissioner with, first of all, currently, the extent to which you view the ability to independently verify those other issues as something within the College's capabilities and what you see in the future about that?

A. So currently, that would be a very onerous, intensive process, and it is not something that is logistically possible.

Q. And do you know of any other regulator that does any such independent verification of those sorts of issues currently?

A. I don't know of any other regulator who does not access to a database who is able to do that, and that goes to what we are currently working on.

So currently, the College of Nurses of Ontario in collaboration with the College of Registered Nurses in British Columbia have been working collaboratively with the National Council of State Boards of Nursing to replicate a database that exists now in the United States, to create that database in Canada to allow regulators to have one place where registration and discipline history is

available to all regulators, anybody who's ever been registered or licensed. In our case, it will be in Canada.

The first step in that piece of work is creating a unique identifier. So right now, hypothetically, Anne Coghlan could be registered in three provinces in Canada, and you wouldn't know that the Anne Coghlan in Alberta is the same one as the Anne Coghlan in Nova Scotia or the same one who's also registered in Florida and California.

What we will have, and we're getting closer, is we will have a way to assign a unique identifier to everyone who ever becomes for the first time a nurse in Canada. And that will allow us to create a database, a regulatory database that will allow regulators to have immediate access to information about anyone who is applying for the first time to receive licensure or registration.

The other very exciting piece of this project is that there will be a capability to connect the databases between Canada and the U.S. So the data needs to reside in the individual countries, but regulators in the United States will be able to access information about nurses registered in Canada, and Canadian regulators will also be able to access information about nurses licensed in the United States.

And then finally what I'd say is that part of our international work is to look

at what is the potential in the future to create an international database because with increasing mobility of the nursing profession, which is not unique to nursing -- it's a feature of a lot of professions -- in terms of being able to ensure public safety, there's an increasing need for regulators to have ready access to data that will assist them in the decision-making that they make about individual applicants or individual members.

Q. And what do you think the timing is on that? What's your estimate?

A. Well, our hope is for Ontario and British Columbia -- we're doing the prototype, and it's a huge piece of -- it's very expensive, but we really feel it is an absolutely critical piece of work. We're hoping to have that by 2020, late 2019 or early 2020, and then depending on the ability of other jurisdictions in Canada to link in, and that really is a resource issue.

So small provinces will need to secure, probably, government support in order to participate in the database, but we are convinced that it is a matter of public safety, and we will assist small provinces -- we are assisting them by funding the initial development of this project, and we will assist them to secure other sources of funding if necessary.

Q. Okay. Different topic but again touched on yesterday in your evidence,

and it was with respect to the issue of in what circumstances a regulated nurse can delegate to a non-regulated health professional, things like medication administration, and you described the situation in which it's assisting a person with his or her routine, activities of living.

And I just wanted to clarify, Ms. Coghlan, with you that that's something that isn't a College standard or just a College view; that actually reflects the legislation yet again. Am I correct about that?

A. That's correct.

Q. And that when you talk about those acts that can be delegated, those are specifically described in the RHPA?

A. That's correct.

MS. ROTHSTEIN: And just for your benefit, Commissioner, you can make a note that you can find the two relevant sections at tab 1 of your legislative binder. It's Section 29, subsection 5 of the RHPA, which you'll find at page 1856 and subsection 35 of the RHPA at page 1857.

THE COMMISSIONER: Thank you.

BY MS. ROTHSTEIN:

Q. I want to turn to an issue now that is obviously important for the Commissioner to know and understand perhaps a

little bit more about than you've already described, and that's the whole issue of mandatory reports and the form that they take and the kinds of information that the College expects employers to provide.

And you've touched on this with Commission Counsel, but you've made clear that given the current technological limits of the College, you expect those reports to be done by mail or by fax. But what happens if an employer phones or sends an e-mail?

Can you just describe to the Commissioner what the response of the College is in those circumstances?

A. So phone calls and e-mails are followed up on, and we retain those documents, and then we ask the reporter or the inquirer -- individual who has phoned or e-mailed to submit a report using the College's report form.

So there is always a response to an e-mail or a phone call. And they are often to assist -- those calls are often to assist the employer in their assessment of whether they have an obligation to make a report, and College investigators assist them to understand what their obligation is, but they're very clear that the decision rests -- that it's the accountability of the employer or facility operator to make that determination.

Q. Okay. And then I want to talk about in light of, particularly, your

evidence yesterday that I'm sure all ears pricked up over that there's quite a significant increase in the number of reports from employers that you are getting or just reports generally and how you are dealing with that increase in reports and how you determine which one comes first, which comes second, how long it takes you to get back to employers, how the College is managing that very significant responsibility to deal with reports as soon as possible?

A. So we have added additional resources, but we have also added some other steps in our process; so, for example, there is an immediate review of anything that comes up, and a very quick look to see is this a matter of high risk?

And by high risk, I mean matters that relate to abuse, whether it be physical abuse, mental abuse, sexual abuse, verbal abuse; matters where a nurse is recklessly disregarding the confidentiality and privacy of clients, so unauthorized access of health records; sexual abuse. Very serious matters would be immediately looked at by an intake investigator.

Other matters are assessed and then assigned to an intake investigator who has a case load and is continually triaging that case load, so does an initial assessment and then determines which matters require more urgent attention.

Q. And can you give the Commissioner some sense of the range of time that it typically takes the College between receiving a report and deciding on the appropriate regulatory response?

A. So if it is a matter of high risk, it could be -- as in this case, it could be 24 hours or a couple of days.

Q. When you say "as in this case," you mean when it was eventually made known to the College that Ms. Wettlaufer had confessed to crimes?

A. That's correct, that's correct. And so that would be similar with a matter of sexual abuse. Depending on the availability of verifiable information, that assessment moves very quickly.

And for other matters in intake that may be low to moderate risk -- again, depending on what's comes in -- it may take longer. I would say on average that those matters move through the intake process within six months. There are outliers, and there are outliers because of the volumes.

Q. But I take it from what you were telling Commission Counsel yesterday that the College is trying to continually staff to take account of the increase in volumes?

A. Yes, we are, and also looking at other mechanisms to appropriately respond because all of the things reported are not of the same magnitude, and we are looking at other

way -- other appropriate regulatory responses that may assist in moving things more quickly.

Q. Now, the other thing I think would be helpful for us all to clarify is in your evidence and in your affidavit, you distinction between two different kinds of investigations: The intake investigation, which of course is the one that was done by Ms. Yee in this case and that you reviewed, and what Commission Counsel and you have from time to time described as a "formal investigation" --

A. Yes.

Q. -- but at other times as a "Section 75 investigation." So I just want to make sure our nomenclature is consistent. Are you using "formal investigation" and a "Section 75 investigation" interchangeably?

A. Yes, I am.

Q. All right. And can you tell those who may not know enough about how the RHPA works what the difference is between the investigation that is done that is not authorized under Section 75 and those that are formal appointments of investigators under Section 75 of the RHPA -- or of the Code, actually?

A. So the first test for a formal Section 75 is that we have to meet the statutory requirement for a Section 75, and my understanding -- and again, everyone knows that I'm not a lawyer -- that is because it is a

very intensive and invasive process.

So a Section 75 means that an investigator has the full powers of investigation including being able to summons; being able to enter a workplace and retrieve documents; potentially enter a member's home and retrieve a computer or documents; to require witnesses to give evidence; to retrieve health records. There are very significant powers that go with an investigation.

It also is a very -- the College investigators have very deliberate processes to ensure that they are following the principles of administrative fairness, and it is a detailed, time-intensive process.

Q. And just, Commissioner, for your reference, the powers of the investigator under a Section 75 appointment are set out in Section 76(1) of the legislation you'll find at tab 2 of your legislative binder on page 1916.

And interestingly, the way it's actually described and might not be known to everybody in the room is that the investigator gets the same powers as are granted to a Commissioner under Section 33 of the Public Inquiries Act. So it does indeed provide investigators with, as Ms. Coghlan has very fairly described, the ability to actually summons witnesses and have them testify under oath.

And from time to time, indeed, is that something that the College has resorted

to in the context of a Section 75 investigation, to your knowledge?

A. Yes, yes.

Q. Okay. And again, just to give those who haven't had the opportunity you have to work with these processes, Ms. Coghlan, a sense, when you're at the ICRC, and there's a full Section 75 investigation of something that the College has done, how many hundreds of pages are those reports?

A. I can't tell you the hundreds, but I can tell you the size of the stack --

Q. Yes.

A. -- and they are huge volumes. ICRC panel members spend hours and sometimes up to two days reviewing the packages for their monthly meeting. They take it very seriously, and the investigative report is very thorough. It will include, obviously, interview summaries, witness statements; it will include copies of medication administration records, patient documentation files. They are very extensive documents.

Q. Yes. Fair to say that in lots of College cases that you and I have looked at over the year, there's the full clinical record of every patient who is the subject matter of the investigation together with reports and interview summaries with all of the caregivers who were in any way related to that incident and so on?

A. That's correct.

Q. All right. Okay, that's helpful context for us to go back and talk about mandatory reports and termination reports.

So I think the question that the Commissioner is surely asking herself or many others here maybe is how much information does the College want to receive from employers together with the termination report? And let me ask a specific question first, and then by all means, amplify.

Does the College want the member's entire personnel file? Is that what the College -- would assist the College in conducting intake investigations?

A. No, it would not assist the College.

Q. Okay. And why is that, Ms. Coghlan?

A. We are counting on and need to be able to rely on the individuals who are closest to the incidents to identify information that will assist the College in assessing the risk that the nurse's practice poses, and receiving information that does not assist will bog down our processes.

Q. And what would one often see in personnel files, for example, that would "bog down," to use your language, your process?

A. It could be attendance records, it could be labour relations issues,

things like interpersonal conflict, conflicts over work schedules.

Q. So what is --

A. Attendance.

Q. What is it, then, that employers should provide to the College together with their termination report? What is the information that the College is looking for?

A. The College is looking for the employer's concerns that relate to their obligation for a mandatory report, and that obligation is in relation to concerns about competence, misconduct, or incapacity.

Q. Okay. And the report form identifies a contact individual. And what kind of information or knowledge does the College expect that contact individual to have?

A. We expect that the contact individual is the individual who's best informed about the incidents that have been reported to the College and can assist the College investigator in providing any additional information in relation to the nurse's practice that would assist in assessing any concerns about risk of harm to clients or residents.

Q. And should that person in the best case scenario and best practice be involved in preparing the report?

A. I would expect that that would be the person who was most knowledgeable,

yes.

Q. And so one of the other things that's come up in this Inquiry is witnesses have suggested that maybe there should be some changes to the College's intake process, and I know, Ms. Coghlan, that you're the first one to say that you're open to all helpful suggestions.

So what about this one: One was that the College provide a copy of the intake investigator's notes to the person that they are interviewing by phone and, you know, to ensure the accuracy of them is the notion. And what is your view of that, Ms. Coghlan?

A. Well, I've described the process so far, and I don't support that that would enhance the process in any way, and in fact, it would add a step that would further delay and draw out the -- not only the assessment of that individual matter but interfere with the movement of all cases through our process.

We have had no indication that there are problems with the ability of investigators to accurately record the information that they receive through an interview. And we count on employers who, in many cases, are members of the College themselves to provide complete and accurate information.

As well, investigators are very sophisticated in terms of their interview

skills, and it's my understanding that they are very good at clarifying, at checking, that they have captured, summarizing that they have captured things accurately and may at times read back to an individual to make sure that they've captured it in an accurate way.

Q. Okay, that's helpful. And what about the practice that is more often used than not, although not invariably, of conducting these interviews by telephone as opposed to actually going to the workplace of various employers and conducting an in-person interview? What thought has the College given to that choice that in most cases it's done with telephone interviews?

A. Again, this is an initial assessment and triage, and I can't imagine that there would be any additional advantage to a face-to-face interview. In fact, again, I suspect it would delay things. It certainly would draw out the College's processes, but I can't imagine that that would be of assistance to busy employers either who we sometimes have enough of a challenge scheduling a telephone interview.

Q. All right. I want to talk about some of the evidence that this Inquiry has heard that relate to some of the Commissioner's questions yesterday about sort of how the College might have looked at certain kinds of information that it didn't have, and that's not a criticism, but just what its risk

assessment would be or what its view of the reporting obligations of employers would be based on some of the information that we now have and the evidence we now have from the Inquiry.

And so let me take you to the scenario that we know something about arising at Meadow Park. We know that Ms. Wettlaufer resigned in 2014, her employment at Meadow Park, and that from the evidence at this Inquiry that at time she resigned, she acknowledged that she had an alcohol and drug addiction; she had overdosed the weekend following --

MS. CORRENTE: I'm going to object because that's not an accurate characterization of the evidence. If you will recall, there was a resignation letter submitted on September the 25th of 2014, and at that time, Ms. Wettlaufer indicated that she had an illness for which she required treatment; however, at that time, she had not indicated that she had any substance abuse issue. That information came later, days later. So I just wanted to clarify that point.

BY MS. ROTHSTEIN:

Q. That's a fair point, and that bespeaks my lack of precise knowledge of the

evidence, and I'm grateful to my friend. So let me rephrase it. I don't mean in any way to misstate the evidence. For the purpose of my question, whatever the evidence is is the way it should be put to Ms. Coghlan.

So what we know is that the employer receives a letter of resignation and later learns that, within days, Ms. Wettlaufer had an alcohol and drug addiction that had re-emerged and, indeed, that she'd overdosed over the weekend following her resignation and that she advised Meadow Park that she would be seeking treatment and that she herself viewed herself as no longer able to work as an RN.

And finally, we know that there was some evidence that narcotics were missing. Ms. Wettlaufer was suspected, but the employer wasn't able nor were police, to be able to squarely link those missing narcotics to her.

MS. CORRENTE: Sorry, and I don't mean to object. I just want to clarify one point. My recollection of the evidence was that she had talked about overdosing and potentially a substance abuse issue, but I don't recall ever any mention of alcoholism, just to clarify that point.

MS. ROTHSTEIN: Okay.

MS. CORRENTE: Not in relation to the information she provided

to Meadow Park.
MS. ROTHSTEIN: Okay.
THE COMMISSIONER: Thank you.
BY MS. ROTHSTEIN:
Q. So take counsel's refinement of my scenario, if you would. In those circumstances, would you have expected an employer to report Ms. Wettlaufer to the College?
A. Yes.
Q. And why is that?
A. Because the employer has information about a nurse who poses a risk to the College, and it fits within the legislated definition of a mandatory report, and the legislated definition requires reports where there's knowledge of incapacity.
Q. And you're referring, Ms. Coghlan, to Section 85.52 of the Code?
A. That's correct.
MS. ROTHSTEIN: All right. And Commissioner, again, for you, tab 2 of your binder, page 1924.
THE COMMISSIONER: Thank you.
BY MS. ROTHSTEIN:
Q. And I'm not going to read it out loud; it is difficult legislative language. But I take it that what you're saying is, Ms. Coghlan, as you understand the legislative regime, where there is a resignation and the employer learns that that resignation is related to incapacity or may be related to

incapacity, the mandatory reporting obligation is triggered?

A. That's my understanding from the legislation.

Q. All right, okay. But in light of that, let's take a look, if we may, at the College's mandatory reporting guide to employers, and I'd ask you to turn up your affidavit and to tab O. And the employer description of obligations begins, and we're at Document 60147, page 4.

MS. CORRENTE: Sorry. And again, I'm always reluctant to interrupt but to the extent these questions are being posed to the witness in relation to reporting by Meadow Park, I would suggest that we use the version of the guide which was in force at the time.

MS. ROTHSTEIN: It's the same on this language. It's identical.

MS. CORRENTE: Okay. I just --

MS. ROTHSTEIN: It's identical.

MR. VAN KRALINGEN: Sorry, if you want that version, I've got it here.

MS. ROTHSTEIN: I've got it too.

MS. CORRENTE: It's the next one.

MS. ROTHSTEIN: It's the next one.

MS. CORRENTE: Sorry about that.
MS. ROTHSTEIN: It's the previous tab. We can do either one, but the language is the same. I've checked them, and there's only one paragraph that's different, and it's not this one.
THE COMMISSIONER: All right. But if we refer --
MS. ROTHSTEIN: But we'll go to it.
THE COMMISSIONER: Yes.
MS. ROTHSTEIN: Yes.
THE COMMISSIONER: So tab N, then, is it?
MS. ROTHSTEIN: Yes.
THE COMMISSIONER: All right. Thank you.
BY MS. ROTHSTEIN:
Q. So we're, again, also at page 4, also under Section 2, "Employers." So the first paragraph deals with the obligation to report in relation to termination. It's really the third paragraph at the bottom of that page: "An employer must also" --
THE COMMISSIONER: Can you just wait till it gets on the screen?
MS. ROTHSTEIN: Oh, so sorry. Thank you. So sorry.
THE COMMISSIONER: Thank you.
BY MS. ROTHSTEIN:

Q. So we're going to go down, a little further down on that page, if we may, please. Thank you. There we go:

"An employer must also file a report if he or she intended to terminate the nurse's employment but the nurse resigned first."

And then it goes on:

"When, following a grievance, an employer accepts a resignation in lieu of termination, or makes another agreement with the nurse, the employer continues to have a legal obligation to report to the College."

So stopping there for a moment, Ms. Coghlan, I take it that the statement that is set out there is true?

A. Yes, it is.

Q. But it doesn't encapsulate the situation that you and I just discussed?

A. That's correct.

Q. Right. And in light of that, do you agree that this guide should be given, perhaps, a redraft to better encapsulate some of the language of the legislation?

A. Yes. We have looked very carefully at the guide several times and are doing it again. And one of the things that I observed following the discussion -- the discussions that have taken place at the Inquiry is that we need to be very clear that

this guide is not legal advice and to ensure that employers are alert to their obligation to understand the legislation and to follow it.

So the College has attempted in all of our documents to use clear language and not what we call "legalese," and I think what is a fair observation here is that it may be perceived as the information being incomplete, and we will definitely attend to that.

MS. ROTHSTEIN: So, Commissioner, I was going to move on to a new subject matter. Might this be the appropriate time for a break?

THE COMMISSIONER: Yes. Can I just get a sense of how long you anticipate being in --

MS. ROTHSTEIN: Maybe ten more minutes.

THE COMMISSIONER: Then unless you --

MS. ROTHSTEIN: You want me to keep going?

THE COMMISSIONER: I think you should go ahead and finish.

BY MS. ROTHSTEIN:

Q. All right. So the next area that I wanted to talk to you about, Ms. Coghlan, is in relation to some of the information that has been put into evidence about the history of Ms. Wettlaufer with her colleagues and at Caressant that wasn't known

to the College at the time that you did your assessment, and I want to get your views on what kind of risk assessment, how your risk assessment would apply if that kind of information had come forward.

So you've had a look at the document brief which is in front of you, Commissioner, and compromises all documents that are in the evidence already.

And in order to prepare yourself for giving evidence, Ms. Coghlan, you have gone through all of those documents -- all counsel in the room know that -- and to the extent that you can, you're able to assist them with answers to questions about them?

A. Yes, I am.

Q. All right. But to be clear, none of these documents except for the ones dealing with, at the beginning, the exercises that the College did at Caressant itself in terms of providing information at their request, but from tabs -- basically from tabs 3 on, you weren't aware of any of those documents in relation to Bethe Wettlaufer; is that fair?

A. That's correct.

Q. All right. So with respect to the incidents that are described in these documents that weren't reported to the College, what would you have expected an intake investigator to consider, take into account, assess? Which --

Let me start again. What would

you have expected of an intake investigator in terms of their risk assessment in relation to some of these incidents? What would have been the risks that would have been higher? What are the incidents that would have created a lower risk?

A. With the risks that weren't reported?

Q. Correct.

A. Yes. Well, when I have a look at it and I anticipate that an intake investigator would have a similar observation is that there are a number of incidents that are of serious concern as they fall into the category of abuse.

So, for example, proceeding with disimpaction when a client is screaming out in pain is clearly an abusive behaviour. Telling a colleague, don't worry about that call bell, I'll -- a patient needing pain medication, I believe was the example, we'll wait and see if she rings again.

MS. JONES: Commissioner, Mr. Golden has risen.

MR. GOLDEN: I understand that there is a whole body of documents that this witness did not see and that the College did not see. But in fairness to those of us who were here and had probably an hour solid of evidence, just about that issue

of the disimpaction including from nurses who were involved who were providing treatment, who had their opinions about it, for this witness to say without that context, without having reviewed the transcripts and understanding what the professionals who were involved said about it -- which was clear that the disimpaction should continue -- an assumption has been made that a resident screaming out and that's clearly wrong and the College should have been told -- well, had the College asked, what they probably would have been told was the whole context.

MS. ROTHSTEIN: So, Commissioner, if I just may, I am not asking this witness whether the College should have been told or not. I'm not going there with this witness.

What I'm trying to get out from this witness which I think will be of assistance to you in this systemic Inquiry is more important.

It's not whether these have actually been substantiated. We

all know that you're going to have to make some findings about that, and this witness isn't in a position to provide us with any assistance as to whether the underlying events have been substantiated either in a way that shows that Ms. Wettlaufer was engaged in abuse or not. It's to give you a picture and to give everyone here a picture of how the College based on information received looks at these incidents and where various kinds of things, if substantiated, fit on the range of risk.

That's the purpose of this evidence. I think it is helpful. I think this witness is in a position to do it. But I'm certainly not suggesting that she or I know all the nuances of it. So it's being put for the purpose of illustration and example and a way of giving you some better understanding of how that risk assessment is done in relation to particular reported events.

THE COMMISSIONER: I think what is helpful from this and would

be -- and this is what I understand the intent of the question is: If the College had asked Caressant Care when it filed its report of termination, if it had asked and taken the file and reviewed the file and reviewed all the incident reports in it, are there incident reports in there that would have caused them concern?

MS. ROTHSTEIN: Yes, sure.

THE COMMISSIONER: And I don't have a problem with that question being answered, and perhaps they can just be given examples without, in any way, suggesting that there was a full contextual analysis of it but just indication. I would find that helpful.

Is that a problem, Mr. Golden?

MR. GOLDEN: No, that's fine.

THE COMMISSIONER: All right, thank you.

MS. ROTHSTEIN: We can go at it that way, Ms. Coghlan. So I can take her through some particular examples, if you like. So we could turn up tab 25.

THE COMMISSIONER: Actually, if she's prepared -- I heard her --

MS. ROTHSTEIN: Yes, she is prepared.
THE COMMISSIONER: Prepared. So the question is -- you've heard what I said, and that is had you seen the full file, were there matters, incidents in the file that would have caused the College to have concern?
THE WITNESS: Yes. And so I've given some --
BY MS. ROTHSTEIN:
Q. So let's just go back to the beginning, then, Ms. Coghlan. You were talking about a disimpacted bowel. You were saying that if it were substantiated that someone was in pain and she continued, that would be, you described, as abuse?
A. Suspected abuse.
Q. Suspected abuse.
A. Yeah. Confirmed and assessed, absolutely. There was an incident that I recall where Ms. Wettlaufer made a comment, a patient requesting pain medication, don't bother, just leave it, and see if she rings again. There was --
Q. Well, let's stop with that. What's the concern in relation to that incident if substantiated?
A. Significant expectation of clients and nursing intervention is pain management and to leave a patient suffering

when there is a way to address that is abusive. It's neglect.

Q. Okay. Next incident that you recall?

A. There was a recall -- I recall a comment that -- derogatory comments about a client, something about him being an ignorant old man, a comment about a client asking for sex and her commenting that, tell him it'll be $200.

THE COMMISSIONER: Actually, I am somewhat concerned about this because some of this was not in evidence, and it's certainly not contextual. What I understood, and --

MS. ROTHSTEIN: It's actually in the documentation that is in the evidence, Commissioner.

THE COMMISSIONER: I --

MS. ROTHSTEIN: But it wasn't probed, I suppose. So it's in the reports that were maintained by Caressant.

THE COMMISSIONER: I don't believe that, that last example, for example --

MS. ROTHSTEIN: I can find it.

THE COMMISSIONER: -- was actually in -- I don't say it isn't in the reports. Try not to interrupt me --

MS. ROTHSTEIN: Apologies, Commissioner.
THE COMMISSIONER: -- while I'm speaking, Ms. Rothstein. I don't believe that it was explored in evidence here, and the problem is that, as we all know in this room, it's not just lawyers watching this; it's the public.
So the suggestion may come across that that in some way actually took place, and we have no context for it.
What I was hoping for is the type of information that is now coming out where we have complaints about pain medication not being given, possible incidents of a procedure going on despite it being painful, those kind of things, that's the essence of what I see of value in this.
And if we stay away from specifics which haven't been proven or accepted or may be disputed, I think it would be just safer. Is there any problem in proceeding in that way?
MS. ROTHSTEIN: I would just

argue, Commissioner, that the purpose is to give you the biggest picture you can have about what it was that Caressant had documented in its own files about this nurse and the extent to which, if that had found its way to the College, the College would have viewed it.

And, in my view, the fact that it hasn't been explored in evidence is a reason for you to stop and say to yourself, then I can't make a finding that that actually occurred but I can nevertheless use this, this assessment from the College to inform my view of how this very complex issue of risk assessment is done by those at the College and assess whether they do it well or they don't, and the fuller range you have of different kinds of incidents and how those factor into the College's analysis, in my view, you'll have a more informed picture upon which to judge because one of the things --

THE COMMISSIONER: Thank you, but --

MS. ROTHSTEIN: Okay.

THE COMMISSIONER: -- we had the evidence from the Facilities on the incidents, and the College was here, and the College was able to examine on it.

So what I would find useful in this case -- there is a gap here; there's no question in my mind. There's a statement in the report from Caressant Care saying -- and we have a whole bunch of other incidents in a file.

I've now heard the College's explanation for why they did not probe behind it. I now understand what you are suggesting is that had the College looked behind it at the incident reports, there were reports there that would have changed, perhaps, their assessment.

From an Inquiry point of view, that I think is what is relevant and helpful because it has implications possibly for the way in which employers are directed to complete forms, language, communication, and so on.

But an exploration of the issues

of the incidents themselves, it's not, in my view, at this stage, appropriate. She didn't investigate them, the College didn't investigate them, and we finished the Facilities' evidence.

MS. ROTHSTEIN: Okay, Commissioner, I have to live with your ruling if that's what it is, but there are some other examples that she has that she noted.

THE COMMISSIONER: And that would be helpful. Here are the kinds of things that I have so far heard that are important: If there are practices which are leading to residents being in pain, those are the kind of things that should be drawn to the College's attention; issues relating to insufficient pain management or poor responses to it is important; those things may amount to abuse or neglect. But it doesn't matter what the label is. What I hear from you is those are the kind of incidents that you hope employers will report to you. Derogatory comments, similarly,

either to a resident or even to a staff member are the kinds of information that you rely on from the Facilities and the employers. If there are other examples, I would like to hear them.

MS. ROTHSTEIN: I understand, Commissioner, that one of the other --

THE COMMISSIONER: Sorry, Mr. Golden?

MR. GOLDEN: Just so that we're clear, there's a context to these questions, and that's allegations or suggestions that the termination report from Caressant Care was deficient because the College is suggesting it could have or should have had other references as well.

But just so that we're clear, in the Facilities section, there was never a suggestion in the cross-examination from the College that there was independently an obligation to report, for example, the incident involving the disimpaction.

What we're talking about here is

whether or not the termination report should have had or could have had additional incidents in it for which Elizabeth Wettlaufer was disciplined which led up to her termination.

THE COMMISSIONER: Okay. I'm not sure I accept all of the --

MS. ROTHSTEIN: Commissioner, Mr. Sandler was here; I've read his cross-examination. There was extensive cross-examination of the Caressant Care witnesses on the basis that the report that they made in the end was misleading, and it was put to them in various ways.

THE COMMISSIONER: Okay, okay. Well, I think we can just stop here. There is no question that Caressant Care thought that it had prepared a report which should have alerted the College to not only the concerns it outlined but the concerns and incidents before it.

And there's no question that through cross-examination the language that was used, there was the clear implication that it would not have triggered that kind of investigation. I don't

think that we need to re-till that soil here.

The question here is, from my perspective for the Inquiry purposes, had the College been given a fuller understanding of the offenses or another way to phrase this is had the College chosen to take steps to investigate the file more fully and had a fuller appreciation of the offense, that's the point of disparity between the two.

The College's view is that the report didn't trigger it and neither did the phone call and the Facilities' view is that it should have. It doesn't --

MS. ROTHSTEIN: I'm trying to make my questions agnostic on that point. I'm trying to simply ask if the information had come to the College's attention, whether it's the fault of the College or the fault of the employer, what would the reaction of the College have been?

I'm trying to be agnostic, with respect. I hope that's clear.

THE COMMISSIONER: I think the problem is, of course, because

as soon as we take it out of context, all of the discussion isn't there. But if we can do it in two steps, it would be helpful.

Firstly, I still would like to have any other list of matters that Ms. Coghlan says would be matters that she wished that an employer would identify, flag, or in other way bring to the attention of the College. That is clearly something very relevant to our Inquiry.

And after that, if you want to ask her what she might have done with it, I'm not sure. We'll go there because that was the second part of it.

MS. ROTHSTEIN: Right. But might I -- just before I get the full list from her in general terms, which she'll be happy to give you -- go back to two incidents that I understand were the subject of testimony and are documented in the evidence before this Inquiry?

One involves Ms. Wettlaufer, what I want to call "shaking her backside" in front of the resident's face, and one

involves the hematoma in which there was a nurse who testified about the punctured hematoma and the unsterile scissors.

THE COMMISSIONER: I would have to understand why that would be relevant for this witness.

MS. ROTHSTEIN: On the very point that -- I think that it'd be helpful to you to know -- like, is butt shaking a joke? Is it something that the College treats lightly, seriously? How does Ms. Coghlan view that particular incident and why?

THE COMMISSIONER: But she didn't. I mean, that's all --

MS. ROTHSTEIN: No, no. Hypothetically, if that information had come to her because the College had asked for it or because Caressant had provided it, either of those two things, what would have been the seriousness of that particular conduct?

THE COMMISSIONER: Well, can we start with the list? I mean, can we start with just getting in general terms the list of types of concerns that the expectation of the College is an

employer should be reporting and, generically, why?
I mean, I've heard her say if you refuse to respond in a meaningful way to a request for pain medication, that amount may be abuse or neglect.
As for the exploring particular incidents through -- I would have to be persuaded, and I think we'll do this after lunch, that there's relevance to that because it's out of context. It's not in the Facilities' time, it's --
BY MS. ROTHSTEIN:
Q. Well, I thought initially when we launched I had persuaded you, Commissioner, that it has relevance and understanding so all of us know what on these facts about Bethe Wettlaufer should be raising concerns for employers and for the College so that we understand that.
But let me finish the question that you want me to ask. Can you assist us, Ms. Coghlan, in telling us sort of with some kind of list other than just saying, you know, professional misconduct which isn't really helpful to the Commissioner, what the sorts of things are that the employer should be reporting to the College and why?
THE COMMISSIONER: Based on the

file.
MS. ROTHSTEIN: Oh, based on the file. Okay.
THE COMMISSIONER: Yes, based on the file. Like, you've read it, you said. And which of these incidents in general terms do you say we as the College wish we would have heard them, and here's in general terms why? Don't assume that they exist, but they're reported incidents.
THE WITNESS: So can I refer to the specific incidents --
THE COMMISSIONER: Yes.
THE WITNESS: -- or not?
THE COMMISSIONER: Yes.
BY MS. ROTHSTEIN:
Q. Okay, good.
A. So I'll start with the general and then give an example using the incident, if that's all right.
So the College would expect to receive information that signals a pattern of abusive behaviour, whether that's verbal abuse or physical abuse or emotional abuse.
And so in the file, I saw examples of that; for example, the physical, it could be characterized -- and again, we would -- these are signals that we would then need to look into, but the College would view the report of a registered nurse using

unsterile scissors, I believe that it was, or instrument to puncture a hematoma is an example of physical abuse, as is moving a client who the nurse herself assesses to potentially have a broken hip without assistance could potentially be abuse. Those are the kinds of things the College would expect to be reported.

Remarks or behaviour of a sexual nature, the College would absolutely expect to receive a report about. The Regulated Health Professions Act has been amended several times, and sexual abuse is something that ministers of health and society at large are taking very seriously, and the College supports the zero tolerance that has been given to that matter.

So examples of those kinds of behaviours -- and they include remarks of a sexual nature -- we would expect an employer to report. I'm not immediately recalling other examples in the incidents that were not reported.

THE COMMISSIONER: That's very helpful.

MS. ROTHSTEIN: Okay. Is that a good time, then, Commissioner, to take our break?

THE COMMISSIONER: It is a good time. I'm very reluctant to ask this question, so perhaps I'll ask you, counsel, if you're comfortable asking it: Is this kind of information made clear

to employers? Like, the --

BY MS. ROTHSTEIN:

Q. By all means, ask Ms. Coghlan that question. She will answer it for you.

Ms. Coghlan, the question is do you think employers know and understand the sorts of high risk indicators that the College is looking for in terms of nursing behaviour?

A. Yes, I do. We distribute our publication to all members of the College. And so members of the College, if they are in an employer role, would absolutely have that information. We also --

Q. So just stopping there for a moment. Members of the College in an employer role would normally mean a nurse manager or a director of nursing, someone in that capacity?

A. Absolutely.

Q. Because they're not only supervising and acting as sort of the employer in the workplace, they are also continuing to be members of the College of Nurses of Ontario?

A. That's correct.

Q. Right.

A. And we know that the College for many years has had a program that is known as "One is One Too Many," and it is widely used in employment facilities by nurse managers, nurse educators, facility operators, directors of nursing in the workplace to help educate and stamp out potential abuse. So that is a widely known resource that the College has.

The changes to the legislation have been very -- over the years, have been very publicly communicated. They've involved consultation, opportunity for feedback, and that has involved employer groups. So I would expect that there's a very wide awareness in the health care sector generally about the focus on abuse prevention.

And whenever the College changes standards, there's wide consultation that includes employer consultation as well as communication of changes in standards in legislation.

The College has a publication which is known as "Quality Practice," and is it a publication that is specifically directed at employers and facility operators, and perhaps the best resource that the College has is a very extensive website that we know employers frequently access for information and for resources and tools.

THE COMMISSIONER: Okay. Thank you.

MS. ROTHSTEIN: Thank you.

Thank you, Commissioner. What time are we reconvening?

THE COMMISSIONER: We have a one hour and 15-minute break, so the court clerk always announces the time that we're back, I believe, so that we all synchronize our watches, but it's an hour and 15

minutes from now.
-- RECESSED AT 1:21 P.M.
-- RESUMED AT 2:38 P.M.
THE COMMISSIONER: Whenever you are ready, Ms. Rothstein.
MS. ROTHSTEIN: So just before I complete my questions of Ms. Coghlan, I apologize, Your Honour, I misspoke and misled you on a fact.
Thank you to Ms. Corrente for pointing it out.
So you'll recall that Ms. Coghlan gave evidence about the way the mandatory reporting regime worked in relation to a resignation tied to a concern about incapacity, and I took you to the section of the Health Professions Procedural Code. Unfortunately, the timing was off in relation to the Meadow Park facts.
So that you know, the Meadow Park facts arise, of course, in late September 2014, and the change to the Code that I made reference to did not come into effect until August of 2016.
So in terms of a mandatory reporting obligation, that was not in fact the law in relation

to that scenario at the time those events arose.

And again, I apologize, Commissioner --

THE COMMISSIONER: Thank you very much.

MS. ROTHSTEIN: -- for that misstatement.

THE COMMISSIONER: I appreciate that.

BY MS. ROTHSTEIN:

Q. Ms. Coghlan, so there was sort of a lot of discussion before the lunch break about the incidents that you reviewed that you were not aware of at the time that you did the risk assessment in relation to Ms. Wettlaufer arising from her employment at Caressant Care.

And I just want to make sure that you have had a full opportunity to answer the Commissioner's question, which was what, if any, concerns would you have had in relation to those incidents had you been aware of them at the time that you did your risk assessment?

A. So when I reviewed those incidents, the picture that I got of the member was very different than the picture that was portrayed in the incidents that were reported to the College.

In some of those other incidents, we see a pattern of a nurse who is not caring, who is not respectful of clients,

and who has disregard for the care and compassion that would be expected of any nurse providing care to residents and/or clients. And in some instances, if proven, the behaviours would be characterized as abuse.

The other concern that it raises is that it was inconsistent with the statement at the end of the report that the College did receive which indicated that there were other issues but that they have not resulted in discipline, and in fact, some of the incidents that I reviewed that had not been reported had indeed resulted in discipline.

Q. Thank you.

A. Excuse me.

Q. Anything else?

A. They paint a picture of an individual who is intentionally engaging in behaviour that is not consistent with the standards and not reflective of professional nursing practice.

Q. And if we can compare that then with some of the reports that you see, and now, I'm not now talking about Ms. Wettlaufer, but reports that you see in this role - and you see literally hundreds of them a year - in which there is a pattern of medication errors.

And can you give the Commissioner some insight into, first of all, to what extent in your experience medication errors are in fact committed by good nurses, caring nurses, to use your words, respectful

nurses? What is your experience in that regard?

A. That nurses do make mistakes, and excellent nurses make mistakes, that that is what the literature tells us as well about medication error. But nurses who are conscientious and reflective welcome their mistakes being pointed out; they acknowledge them; and they put steps in place to correct those mistakes.

The other key feature of an accountable nurse is that their first priority is the client or the resident or the patient, and upon identification of an error, the first action would be to make sure that the patient is safe and to take any action required to ensure that.

The incidents that I have reviewed that were not reported to the College don't give a sense of a nurse who is putting the safety and well-being of the client first and foremost and, in fact, suggest that her own needs are taking precedence at times.

Q. And then let's go back to the alternative route. One of the other regulatory actions that is open to the College when it gets a Mandatory Report of Termination, which is to appoint an investigator and to do the section 75 investigation that you have described in general terms for the Commissioner before lunch.

Having regard for those powers,

can you assist the Commissioner with respect to what the scope of those investigations are and whether they are by definition an investigation of the nurse's entire nursing history at that employer or whether in fact they are more limited in scope and, if so, why?

A. Yes, those investigations are focussed on the incidents that are reported to the College, so the allegations that form the approval of that section 75 must be laid out, and those are based on the information that the College has received in the report.

That information also through the process must be provided to the member who has an opportunity to respond to the concerns that have been raised.

So the investigation is focussed on the information that was contained in the report.

Q. And just so the Commissioner has the full picture, am I right, Ms. Coghlan, that at the College of Nurses of Ontario, more often than not the nurse who is responding to an investigation commenced under section 75 will be represented by legal counsel?

A. That's correct.

Q. Okay. So I want to talk about another aspect of the process of triage and risk assessment that the College does, and you have made the case and we have heard you that the College endeavours to identify the risk and then come up with a proportionate

regulatory response.

So that is based on -- you have told us the principles that is based on. But to what extent has the College done any digging or done any kind -- made any kind of attempt to assess whether that is increasing, decreasing recidivism or having no impact?

A. Well, actually, what is interesting, we did have a look to see if there was anything in the literature about recidivism, and there isn't in respect to nursing regulatory intervention.

So our internal statistical experts conducted a recidivism review, and they went to the literature and defined the definition of "recidivism" and for the purpose of the study used a period of three years.

So that means for nurses who were reported and I believe it was between -- reported from the time period 2006 until the end of 2014, they looked at all of the incidents of employer reports and then did an analysis to determine, of those reports, how many were the subject of a repeat report or complaint within three years of the original report.

MS. ROTHSTEIN: So just stopping you there and to assist the Commissioner, Commissioner, it is at tab 42 of the brief that was filed by Commission Counsel, but it is not yet in evidence.

And so I am going to ask -- I don't even have a document number for it, so I am in your hands, Commissioner, as to how best to mark this as an exhibit. Oh, thank you, so Commission Counsel has given me the doc ID, which is 72873, thank you.
So might this marked as the next exhibit, Commissioner?
THE COMMISSIONER: So is it only three pages in length, this report?
THE WITNESS: Yes, it is.
MS. ROTHSTEIN: Yes.
THE COMMISSIONER: All right, so the document entitled "Recidivism of Nurses Subject to a Report From an Employer, May 7, 2018", document 72873, will be the next exhibit, and that number, Madam Clerk, is?
THE COURT CLERK: 125.
THE COMMISSIONER: Exhibit 125.
EXHIBIT NO. 125: Document entitled "Recidivism of Nurses Subject to a Report From an Employer, May 7, 2018", Document No. 72873.
BY MS. ROTHSTEIN:
Q. Thank you, Commissioner.
And, Ms. Coghlan, have you got a

copy of it in front of you there?

A. I do.

Q. Okay. Sorry, I interrupted you, but I wanted to make sure that the Commissioner had it. So you were providing a summary of what these three pages did and what the findings were?

A. So the overall recidivism rate was 13.3 percent.

And then it was broken down to look at recidivism by outcome. So there are a variety of potential actions that the Registrar can take, and we looked then at recidivism by nature of the outcome of the first employer report; and for those, the vast majority of reports resulted in the remedial approach of what we call banked with notice and the recidivism rate was 12.4 percent, which is below the average for all reports from employers.

And we'll see in the document that the recidivism rate is slightly higher for members whose first matter resulted in an investigation for incapacity or professional misconduct, so that would be a section 57 or a section 75.

Q. And just so we can all understand some of the nomenclature, there is a couple here that are a little opaque.

And you have explained banked with notice, which is the one that you have just referred to, and I think everyone

understands now what an incapacity section 58 is, which would be a formal incapacity process; am I right?

A. That's correct.

Q. And then we now know what an investigation under section 75 is.

There is "Meet with the Director of [...]" and is that Investigations and Hearings?

A. That's correct, professional conduct --

Q. All right, which is someone who reports to you and isn't, I assume in the scheme of things, quite as serious as meeting with you in terms of the scale of remedial response or the force of it, as you have put it; is that fair?

A. That's correct.

Q. And then there is meeting with you, and that is self-evident.

But the next one "Did Not Attend Meeting - Banked", and can you explain to the Commissioner what that connotes?

A. Yes, I will start with a minor explanation about the meeting with me.

So while the meeting with me is intended to be remedial, I have reserved my decision as to whether or not a section 75 investigation is warranted. And the purpose of that meeting is to determine whether the nurse, having been required to review standards and reflect on the incidents and the application of

the standards to them, has sufficient insight to be able to provide assurances to the College with regard to his or her future practice.

So there are times when the outcome of that meeting may be a section 75. It is infrequent, but it does happen.

There are times when for a variety of reasons individuals may not attend the meeting, and I then have to make a determination about whether -- what the appropriate response is, because it is voluntary to attend a meeting.

And there are times when the determination is to bank the information with notice, so that is what that means and --

Q. But I take it there are times when you come to the conclusion that the reasons for not coming to meet with you raise further alarms?

A. Yes.

Q. And require a more serious response?

A. That's correct.

Q. Is that fair?

A. Yes, it is.

Q. Okay, thank you for that.

And then "Executive Resolution" refers to what?

A. So that was under the previous legislation. So we went through yesterday when the Complaints Committee regime and the Executive Committee, when the Executive

Committee had a role, a different role. So executive resolution was a similar approach to Executive Director action but it came -- it was used during the time when the legislative framework was different from what it is today.

So because this study looked at the period from 2006, there were changes in 2009, I believe, and so executive resolutions were no longer used because the Executive Committee no longer fulfilled that role.

Q. It is now the ICRC?

A. It is the ICRC.

Q. Okay. All right, well, that is helpful, thank you, Ms. Coghlan.

So finally, the last subject for you touches on one of the very first things that you gave evidence about yesterday in response to the questions of Commission Counsel and that was the kinds of collaborations that the College is engaged in with the Ministry of Health and Long-Term Care and, indeed, with other stakeholders in the health care sector.

And you told us about the JPNC, which I believe stands for the Joint Provincial Nursing Committee, and you told us that that's a collaboration between the MOHLTC and the CNO, but I don't think that you gave us yet an example of the kinds of projects that that collaboration is working on.

And if I understand it correctly, one of the projects relates specifically to long-term care?

A. Yes. So first of all, the Joint Provincial Nursing Committee is made up of all of the nursing stakeholders in the system, so it includes the professional associations, the union, educators, employer group, and the Ministry of Health and Long-Term Care as well as the Ministry of Training, Colleges and Universities who are responsible for nursing education. So it is a nursing stakeholder group that provides policy advice to the Ministry.

And about 18 months ago, that group determined that the priority that they would focus on was issues in relation to long-term care, so there has -- and the College's role in that is providing support in terms of how standards apply, providing some of the data that we talked about yesterday in terms of employment, nurses who are employed in the long-term care sector, the nature of their employment, and then other partners are bringing their perspective.

So for example, there will be perspectives around the availability of nurses to provide care in long-term care, the remuneration of nurses in long-term care, the supports that are in place, and the implications for nursing education of changes in the long-term care environment and the needs, the changing needs of clients in the long-term care environment.

That is another huge piece of

the perspective of the needs in the long-term care system is that the needs of residents have changed enormously over the years, and it is not just providing an alternative place of residence for seniors in our society. These individuals often have very complex needs and their age range can be from very young to seniors.

So the complexity of the needs of individuals in the long-term care sector is another example.

So that this group will be providing recommendations to the Ministry that will inform policy direction.

Q. And then one other example of collaboration with the MOHLTC I understand is work that the College is doing specifically with the Inspections Branch; is that correct?

A. Yes, that has been a collaborative series of meetings that was established with a group of College staff and representatives from the Inspections Branch of the Ministry to look at the different perspectives of risk in the long-term care sector. So the College has a perspective through its processes of some of the risks that we see, as does the Inspections Branch, and the goal there is to collaborate to identify opportunities to address those risks.

Q. And as I understand it, some of the issues that have been identified as requiring that examination are documentation,

medication, abuse prevention and education; is that right?

A. That's correct.

MS. ROTHSTEIN: Okay. Well, thank you very much, Ms. Coghlan. You know that other counsel have questions for you. Thank you, Commissioner, those are my questions.

THE COMMISSIONER: Thank you very much, Ms. Rothstein.

MS. JONES: And, Commissioner, Mr. Van Kralingen on behalf of one of the family groups.

THE COMMISSIONER: Thank you, Ms. Jones.

MR. VAN KRALINGEN: Good afternoon, Commissioner.

THE COMMISSIONER: Good afternoon, Mr. Van Kralingen.

CROSS-EXAMINATION BY MR. VAN KRALINGEN:

Q. Good afternoon, Ms. Coghlan.

A. Good afternoon.

Q. Any name is Alex Van Kralingen, and I am one of the lawyers representing one of the family groups.

I have prepared a small collection of documents that is in a yellow cover sitting on the top there.

A. Thank you.

Q. And I wanted to apologize

first, because I think I might have misspelled your name, putting an "e" instead of an "a", so --

A. That's okay.

Q. -- as someone with a last name that gets misspelled wrong frequently, I am very sympathetic to that.

So I am going to ask you to keep both your affidavit and that collection of documents with you, as I am going to refer to both during the course of my examination today.

Before we start looking at any of the documents, though, I want to start by better understanding an answer you gave to Ms. Jones yesterday, and I want to talk about the interim period between when a College commences an investigation regarding competence or capacity and the point of resolution of that complaint or report.

In the interim period, a nurse may be working for a different employer, and I am wondering if you could clarify your evidence. During that interim period, does the College contact the new employer?

A. I want to just clarify that you are talking about the period where a formal investigation has been initiated?

Q. Yes.

A. The -- during that period, the investigator who has been assigned may contact a current employer to obtain information about the nurse's current practice.

But the fact of an investigation is protected under the section 36, so they wouldn't be contacting to say this nurse is under investigation. They would be making what we call a general inquiry into the practice of a particular nurse.

Q. And the purpose of that inquiry is what?

A. The purpose is to determine whether the current workplace has concerns that are similar to those that have been reported to the College.

Q. Okay, I am going to show you a document that Ms. Jones showed you yesterday. It is document 37176. This is the letter, and as it is getting pulled up, I'll just describe it. It is the November 2nd, 1995, letter from Ms. Pavletic at Geraldton Hospital regarding Ms. then Parker, now we know Wettlaufer, her termination.

And if you could just cycle down to the middle of the page, please, under the "Employment History" section, there is a reference to:

"Current Employment: Geraldton District Association for Community Living".

And my understanding is that that is a group home for those who are intellectually challenged.

I reviewed the database of documents for this Inquiry, and I can't find

any record of the College contacting the Geraldton District Association for Community Living in 1995 or any time thereafter. I'm wondering if you are aware if the College ever contacted this group home in connection with Ms. Wettlaufer's practice?

A. I am not aware. And my response to your earlier question was about our current practice, so I am not familiar with what the practice was in 1995.

Q. So that is actually helpful. It is very possible that in 1995 the College made no effort to contact the Geraldton District Association for Community Living during the interim period while the investigation was ongoing and before the resolution of the investigation?

A. That is possible.

Q. Okay. So jumping ahead to the point where Ms. Wettlaufer is terminated by Caressant Care Woodstock and starts working for Meadow Park, I assume Ms. Wettlaufer would have somehow informed the College that she had moved to a new employer. Is there an obligation to register if you have a new employer?

A. That was in --

Q. 2014.

A. Yes, there was, yes, it was her obligation to do that.

Q. An Intake Investigator, though, is not in any way authorized to call a current employer of a nurse for whom a report

has been made that is going through the intake process; is that fair to say?

A. Well, what I can -- I can't say in a blanket way that they are -- they are not obligated, but it may be part of their inquiry. It would depend on the nature of the incidents that were before them and whether they were aware of a change in employer.

So there are times when an Intake Investigator who has -- where the register shows that the individual has changed a practice setting will make that general inquiry that I spoke of.

Q. And that general -- sorry, and the Intake Investigator is authorized to make that general inquiry?

A. They can make any inquiry that they want, but there is no obligation on the facility to respond, and many facilities will not speak to a general inquiry. They will say that they are not able to make any comment.

Q. But the purpose of the inquiry doesn't change as between an Intake Investigator and a section 75 investigator?

A. No, it does. With a section 75 investigation, the Intake Investigator can -- has the powers, if necessary, to compel someone to provide information.

Q. All right. If you could go to tab 17 of the yellow document book that I have got for you, and it is document 36834. This is the Reports Intake Assessment Form.

First of all, do you recognize this form of document?

A. Yes.

Q. And I assume this is a document that is frequently used at the College in connection with the intake process?

A. That's correct.

Q. This is the Intake Assessment Form in connection with the Wettlaufer report from Caressant Care. So you will see at the top the "Date Received" is May the 1st, and you will see on the right that there is a box that says the "Date Allocated" is July 23rd, 2014?

A. That's correct.

Q. You went through the report in some detail with Ms. Rothstein. On July 23, 2014, the employer's report comes in which shows on its face multiple concerns leading to the termination of Ms. Wettlaufer's employment. Is this the sort of information which might prompt an Intake Investigator to call a current employer to ask questions about a nurse?

A. I wouldn't expect -- I don't know for sure. I wouldn't expect that it would be the kind of information that an investigator might inquire of another employer.

Q. There is no legal barrier to doing so?

A. There is no legal barrier, but again, it is a voluntary inquiry.

Q. I understand that.

A. And that is why I think

that -- that is what I am basing my response on, that I wouldn't expect that they would, because their experience nine times out of ten is that the employer will indicate that they are not able to assist.

Q. As you know, the Commissioner will be thinking about possible improvements to the system generally.

A. Yes.

Q. And I am wondering would an expectation for Intake Investigators to call current employers for a nurse who is subject to an intake process, do you think that that would be helpful?

A. I think what would be helpful is for there to be an expectation that employers would be forthcoming with information that may assist the College in the review of a matter.

Q. But the current employer may not know that there is a report about a former employer?

A. Right, where the Intake Investigator identifies that it would be helpful to have information from the current employer, it would be very helpful if the employer were able to provide that information.

Q. I understand. And my understanding from what you were telling me earlier in our time today is that many Intake Investigators do not contact the current employer; have I misunderstood that?

A. I said that my expectation or my -- and maybe that is not the best word to use. I don't know for sure. I would have to ask them. But my understanding from conversations with investigators is that they may not, because they become familiar with the facilities that are helpful and those who will just simply say we are not able to provide comment and so that --

Q. Do you think that would be a --

A. -- is what I am basing my assumption on.

Q. I didn't mean to speak over you. Did you think it would be a best practice or do you think it would be a best practice for Intake Investigators to call a current employer in circumstances where an intake has been received by the College?

A. Where they can rely on the information, yes.

Q. All right. I also wanted to talk a little bit about your conversation with Ms. Jones about the public registry and unpack some of the questions you were asked yesterday.

As you may know, when Ms. Wettlaufer applied for a job at Caressant Care, she did not list her employment at Geraldton Hospital as part of her experience, and during my cross-examination of Ms. Crombez, she indicated it would have been helpful to know about Ms. Wettlaufer's employment at Geraldton.

So my question to you is, to your mind, is there any legal or practical barrier to having a nurse's entire employment history listed on the public register?

A. I think it is more a practical consideration. The reality is that 175,000 nurses are engaged in approximately 175,000 different employment positions with 13,000 different employers.

And for the College, the College's information needs to contain information that is relevant to its regulatory role in terms of the information that the College has and can verify about the member.

So that is why I think I have said earlier in my testimony that all members of the system need to be part of the safety net, and employers need to have mechanisms in place to obtain information from member -- from future employees about their history and be able to check reference checks.

The other reality is that our -- we are relying on nurses to self-report, and the College, if the College were to have to verify every time -- and we do, we have to verify any information that goes on our public register, we have to verify that it is accurate. So I think that that would be a logistical -- a very onerous logistical issue.

Q. My understanding is that your Annual Membership Renewal Form expressly requests that a nurse provide her employment

summary for the year; am I mistaken?

A. No, you are absolutely correct, and one of the changes that we are going to be implementing with our -- I think I also alluded to changes in our information system, and one of the changes will be to provide that, all of that information.

So if I report in 2017 that I currently have three employers, all three employers will appear on the public register.

Q. What I am asking, though, is I wonder is there a mechanism to aggregate the information at least on a going-forward basis to connect that in some way to the public register to create that history that I have suggested to you?

A. I'm not the expert in that, but I would be happy to take that recommendation back for consideration.

Q. Yeah, I am not the expert in that either, so...

If you turn to your affidavit, please, at page 34 and paragraph 83.

A. I'm sorry, which page, please?

Q. Page 34 and paragraph 83.

In this paragraph you discuss the triage function of an Intake Investigator, and I assume that there are instances which are more urgent for the College in connection with a particular report and less urgent?

A. That's correct.

Q. Instances which may require more immediate intervention than those, that although are important, are not necessarily urgent?

A. That's correct.

Q. The mandatory reporting guide contemplates that a report needs to be filed immediately if a nurse poses a continued risk?

A. That's correct.

Q. Could you explain to us what a "continued risk" means?

A. That means where the employer has concerns that the conduct or the behaviour or the actions of the nurse are likely to continue to be a risk to the public.

So for example, if -- a very serious example is sexual abuse. And if there is an allegation of sexual abuse, then there is the potential that clients are at continued risk with an individual who may be engaging in sexual abuse.

If there is deliberate intentional physical abuse, there may be a concern that other clients would be very vulnerable in the presence of that nurse.

Those are examples of a continued risk.

Q. And so earlier today you were talking with Ms. Rothstein about sort of how you manage the urgent issues like when they come up versus things that are less urgent, and I am wondering what was your process as of 2014

when a report would come in? How would you identify the things that you would put in the urgent pile versus the important but not urgent pile?

A. So those risk categories that we talked about earlier are used to assess the level of risk, and very generally, they fall into low, moderate and high risk. And the accumulation of risk factors move those things into high risk, so --

Q. I understand your answer, but what I am actually asking is at some point the document, the report, the employer's report lands in the College's office.

A. Yes.

Q. It looks, from Ms. Yee's intake report, that her first touch point with the file is July 23rd, even though it is received on May the 1st.

And what I am trying to understand is before July 23rd in 2014 --

A. Yes.

Q. -- was there anybody else at the College who would have done any kind of vetting of the report --

A. Thank you.

Q. -- and can you explain how that would have worked?

A. Yes, thank you very much.

So on receipt, so within 24 hours, an Intake Associate reviews that matter, and anything that is identified as urgent, to

use your words, is reviewed by the Intake Coordinator or at that time it may have been the Manager, and there would be an initial assessment about the priority that should be given to that matter.

Q. And has that process changed in any way since Ms. Wettlaufer's crimes have come to light?

A. The only -- the only way that it has changed is that there -- rather than the Intake Coordinator doing this constant assessment of what we have and where things are in terms of priority, we have more people doing that, because each investigator has a case load, Intake Investigator, and they are constantly looking at what the priority is within there, so there is constant triaging going on.

Q. Right, so once something gets given to an investigator, the relative priority can rise or fall based on what else is coming in the pipeline?

A. That's correct.

Q. Okay, can you go to tab 9 of the yellow compendium of documents you have. This is document 36848, and this is the cover letter to the Caressant Care Woodstock report on Ms. Wettlaufer.

A. Yes.

Q. I am just going to wait for it to come up on the screen.

Am I to understand that the only

two ways that the College receives reports of this sort are via regular mail or via fax?

A. Yes.

Q. And typically, I assume, if you receive it via fax, there would be a fax header on the form?

A. I would expect that, yes.

Q. Do you believe that this letter was sent in via regular mail?

A. Yes, I do.

Q. Are most reports sent in via regular mail?

A. Yes, other than urgent reports, so urgent reports may -- typically, we would receive a phone call indicating it was coming, and it then would come by fax, followed by mail.

Q. So if you look at the final sentence of the first paragraph, it says:

"She was terminated due to a medication error which resulted in putting a resident at risk."

And I am wondering if that language of "putting a resident at risk" changes any urgency in the College's triage process?

A. Well, the College would do its own assessment, because all medication errors have the potential to put a resident at risk.

Q. Yes.

A. And so the College assessment

is what the level of risk is that that -- that the report suggests.

Q. Okay. Can we actually go back to tab 17 of the document you have there, which we have talked about already. It is document 36834. Again, that is the Reports Intake Assessment Form.

So just so I am clear, before July 23rd, 2014, you are suggesting that somebody else at the College would have reviewed this -- would have reviewed the report relating to Ms. Wettlaufer in order to figure out where in the priority it should be?

A. Yes, and in fact, now that I look at this again, what I can tell you is that this note that looks like it is -- if you scroll up on the screen a little bit, the note that looks like a Post-it note has been placed on the page. It says "Prior file in copy room". That is a note from the Intake Associate who has reviewed the initial -- scroll down, sorry. Scroll down, sorry.

Q. You are saying that is from the Intake Associate?

A. Yes, who has --

Q. Who is Patty?

A. Yes.

Q. Okay. And what you are suggesting is Patty has done some sort of an initial review?

A. Yes.

Q. Is there any documentation of

when that initial review happens, any sort of record of that at all in terms of your processes? I am not speaking with respect to Ms. Wettlaufer specifically. I am talking generally with respect to your processes.

A. No, not that I am aware of.

I think what I want to be clear is that when a matter comes in, so it is the same individual who is date-stamping it, who is creating the file, who is looking to see are there prior -- is there prior information the College should be collecting. So it is done very close to the time of the matter being received by the College.

Q. And that hasn't changed between 2014 and today?

A. No.

Q. It is fair to say, though, that as of July 23rd, no one had had a substantive look at the file outside of that very initial triage moment you have discussed?

A. That is my understanding.

Q. Does the College maintain any service standards about an acceptable period of time between the receipt of a report and the file being given to an Intake Investigator for a substantive review?

A. The standard -- we don't have a time frame, if that is what you are asking me, in terms of a service standard.

Q. That is part of it, yes.

A. Because we are constantly

triaging to be able to address the most serious matters on an urgent basis.

Q. I can assume --

A. So what I --

Q. Sorry.

A. I'm sorry.

Q. No, please go right ahead.

A. What I indicated earlier is that our volumes are unpredictable, and we adjust as we can to accommodate for volumes, but our priority is on those matters that pose the most serious risk of harm to patients and residents.

Q. And I assume that gauging of serious risk is based on the accuracy of the report that you are initially provided by the employer?

A. That's correct.

Q. Is there any sort of outer boundary of time that you would deem to be unacceptable for an Intake Investigator to first be having a substantive review of an employer report?

A. Well, I think the team is currently looking at those outliers that I talked about. So when I said that my estimate is that we attend to matters within six months, there are some that are outliers, and earlier this year there were some that were a year old, and that would be unacceptable.

Q. Does the timing of where something -- sorry, does the placement of where

you put it in the pipeline, so how you triage something, is it affected at all by the underlying timing of the event which prompted the report? For example, here Ms. Wettlaufer was terminated on March 31st, and the report didn't land until May the 1st, which is actually slightly outside, I understand, the 30-day period.

If something happened the day before and it was reported, for example, versus something that was slightly over 30 days reporting, does that period of time affect where something goes into your pipeline?

A. Not unless it coincides with the seriousness of the matter being reported.

Q. You have indicated that in some circumstances the first initial review for an Intake Investigator might take as much as six months?

A. It may.

Q. Do you think that members of the public would be disappointed in that time frame?

A. They may. I appreciate that they may be disappointed. What I want the public to appreciate is that the College is looking at the things that pose the most serious risk of harm, and there are many matters that are reported that in a different work setting would have been addressed in the workplace.

And so that is why our triaging

and continual prioritizing of matters is designed to make sure that action is taken to address in a -- that those matters that pose serious risk of harm are addressed on an urgent basis.

Q. Yesterday you were discussing with Ms. Jones, and it is actually in your affidavit as well, the College's resources. You said in 2018 that the College had 44 and a half million dollars in revenue; is that right?

A. That was our budget.

Q. Your budget, sorry.

A. That is not our revenue. That is our annual budget.

Q. That is fair. How are you funded? Is it solely through the registration fees of your members, or do you --

A. It is.

Q. Okay. Given the swell of complaints that you discussed yesterday, do you feel that the College has the resources to adequately effect its self-regulatory function?

A. I just want to clarify that I referred to an increase in reports, so not in complaints. There is a minor -- there is a small increase in complaints, but the big increase has been in reports from employers.

And in terms of the resources that we have, we have -- in our forecast for our budget for 2019, we have identified that due to the increased volume we have seen this year, that we will need to increase our

resources and we have given notice to members that the membership fee is going up for 2019.

Q. You have talked about the differentiation between the power to compel documents as between an investigator versus an Intake Investigator, and in particular, the statute does not contemplate even the role of an Intake Investigator; would you agree?

A. That is correct.

Q. The College has created the role and the intake process to help guide the risk assessment and to guide your appropriate regulatory response; is that fair to say?

A. That's correct.

Q. Do you think that Intake Investigators should have the ability to compel documents?

A. No, I don't.

Q. Can you tell me why?

A. That is an -- the whole purpose of intake is that initial triage, and we want to be able to do it quickly so that we can quickly spot things that need that full power of a section 75, because those are the most -- the matters that potentially pose the highest risk of harm.

If we were to initiate section 75 powers for every matter that came to the College's attention, that would hamper the College's ability to in a very timely, efficient manner address those most serious matters.

Q. Do you believe that an employer report -- sorry, do you believe it would be possible for an employer to send a copy of the relevant nurse's employment file along with their report to the College?

A. Could you ask the question again, please?

Q. I'll try and ask it in a different way, because I saw the Commissioner looking at me, so I'll try it a different way.

THE COMMISSIONER: I look at you from time to time.

BY MR. VAN KRALINGEN:

Q. Fair enough.

Do you think there would be value if the College, along with an employer report, had the ability to compel the employer to provide a copy of the entire employee file for the given nurse in question?

A. No, that would not be helpful, and that is why we are specific in our guidance to employers about specifically identifying the incidents which cause them concern about a nurse's conduct, competence or capacity, and we do indicate that they are free to attach documentation that supports those incidents.

Q. But in a scenario where the College receives inaccurate information from an employer, do you think having the capacity to look at the employee's entire file might allow you to try and reconcile some of those

inaccuracies or ask questions about inaccuracies?

A. Again, we need to be part of a system, and employers play a key role, and we are counting on employers to be able to assess what the critical matters are that pertain to a nurse's competence, capacity or conduct.

A whole employee file is not helpful because we are not then clear what are the specific concerns that the employer is flagging.

And again, we have already talked about the volume of matters that the College is dealing with, and one of the ways that we have -- one of the processes that we have put in place to support us to be able to in an efficient, timely way assess matters is, for example, the Employer Report Form, so that we receive information in a consistent way that allows for that quick assessment and triaging of matters coming in.

Q. I would like to move on to a different topic. I now want to talk about the relationship between the Ministry of Health and Long-Term Care's investigations or inspections and any possible reporting to the College.

To your mind, is there any legal barrier for someone who works as an inspector with the Ministry of Health and Long-Term Care in conjunction with the execution of their duties from reporting concerns about a Registered Nurse to the College?

A. I apologize, but I am not an expert in that legislation.

Q. You are not aware of any barriers, sitting here today?

A. I am not aware of a barrier.

Q. In the wake of Ms. Wettlaufer's abrupt departure from Meadow Park, there was a Ministry investigation as to missing narcotics; are you aware of that?

A. Yes, through this Inquiry.

Q. I appreciate that, yes.

During the course of that investigation, the Ministry inspector was told about Ms. Wettlaufer's resignation, and also her note that she has an illness that will require treatment and she'll be unable to work as an RN following her treatment.

In terms of best practices, do you think that the Ministry should have shared that information with the College?

A. That would have been helpful information for the College to have, absolutely.

Q. Can you go to page 17 of your affidavit and paragraph 40, please. Thank you.

You talk about the initial declaration that nurses had to make in 1995 and then how that declaration has changed in 2013, namely, that they did not suffer from any physical or mental condition or disorder that would affect their ability to practice nursing.

And I want to understand, in a

practical sense, how useful is that question to the College?

A. It is very useful. For example, a nurse may disclose that she has a significant hearing deficit, and that could have an impact on the ability to practice safely and that allows the College to do an assessment and to make sure that the nurse is putting measures in place to accommodate for that hearing deficit.

Q. How often does the College receive such information in connection with that question about a physical or a mental condition or disorder that may affect their ability to practice nursing?

A. I can't give you a number, but it is a common check-box for applicants, and there are two ways that we get the information.

So there is the form that we reviewed yesterday.

And then at the time of writing the registration exam, applicants will sometimes ask for accommodations, and whenever an applicant asks for an accommodation, they are advised that, along with the review of the accommodation request, the College will also assess whether the need for an accommodation relates to their ability to practice safely.

Q. In the context of an untreated addiction issue, would you agree with me that the question is not particularly

helpful, as it is unlikely the nurse would disclose?

A. I'm sorry, could you ask the question again, please?

Q. Certainly. In the context of an untreated addiction issue, would you agree with me that the question is not particularly helpful because the nurse is unlikely to disclose?

A. You are correct that it may be unlikely that an untreated addiction issue may not be disclosed because of the nature of the disease and the lack of insight. However, it may well be identified during the student clinical -- their education practice, or it may be uncovered during a criminal background check.

So it is unfortunately quite common for applicants to have on their criminal background record driving under the influence charges, and so we would review court documents which often have information that would alert the College to an untreated alcohol addiction.

Q. Could you go to tab 27 of the documents I provided you, and this is document 36293. This is Ms. Wettlaufer's 2015 Annual Membership Renewal. I am going to ask you, once you pull it up, to cycle to the bottom of the page, please.

You will see at the bottom of the page that this was submitted on December 29th, 2014, at 12:45 p.m. I assume that the

College has some sort of an electronic process that tracks this; is that fair to say?

A. Yes, this renewal would have been completed online.

Q. And you will see and we were talking a little earlier about the idea of the employment summary, and it says "Employment Summary" with respect to Ms. Wettlaufer and it references Meadow Park; it says the start date and end date of April 2014 and then the end date of September 2014.

My first question is what is the purpose of having the employment summary here?

A. It is part of the data collection that the College does on behalf of the Ministry for their health human resource planning work.

Q. Who sees this document or the information aggregated from these documents at the College?

A. Well, our stats department does an aggregate, but then this information is submitted to the Ministry, the Ministry database.

Q. Of course, as you were reviewing earlier today, only a few months earlier in October 2014 the College sent Ms. Wettlaufer a letter banking the information received from Caressant Care.

So I am wondering, does the College look at the information that Ms. Wettlaufer was employed for only four months at

Meadow Park after she was terminated from Caressant Care and take any steps to learn about the circumstances of her departure?

A. No, I want to be clear that these individual forms are an administrative process, and they are not individually reviewed. That information is health human resource data that is supplied to the Ministry in terms of the start and end date, and it also will trigger the information on Find a Nurse about the nurse's current business address.

Q. Could you go to tab 4 of the yellow document brief you have in front of you. This is document 37259.

THE COMMISSIONER: What tab, I'm sorry?

MR. VAN KRALINGEN: Tab 4.

THE COMMISSIONER: Thank you.

BY MR. VAN KRALINGEN:

Q. You are welcome.

From what I can see, this document is called "Summary of Investigation", and what it appears to me to be is an aggregation of Ms. Wong's notes - and Ms. Wong was the investigator for the College during the Geraldton issue - an aggregation of her notes, including information she had received from the health care workers at Geraldton around the incident of Ms. Wettlaufer's suicide attempt.

I would like you to go to page 11, please. At page 11 there is a fellow nurse, Ms. Gagné.

A. I'm sorry, at page 11 --

Q. So you are in tab 4, and page 11, what you will see on the bottom right-hand corner is the document number and then a dash to certain page numbers.

A. Thank you.

All right, thank you.

Q. This was a conversation between Ms. Gagné and Ms. Wettlaufer as Ms. Wettlaufer was being treated, and if you could just cycle down a little on the page - thank you - you will see near the bottom that Ms. Gagné asks Beth:

"[...] did you have or have you taken any street drugs?"

And Ms. Wettlaufer says:

"Yes, hash about 4 weeks ago."

And I think that that is a short form for hashish; would you agree?

A. Yes.

Q. It says:

"Client remains crying."

Ms. Gagné says:

"What's wrong? Are you scared of something or someone?"

The client says, "Yes".

And if you go over to the next page, the client says -- or Ms. Gagné says, "Who?"

The client says, "Ron Von Stook."

Ms. Gagné says, "Who's Ron Von

Stook."
And the client says:
"He's evil. If he doesn't like you. He hunts you down & when he gets a hold of you. He ties you up & then he tears you're [sic] skin off & runs runs some sharp thing under your feet."
My first question is with respect to the issue of the use of street drugs.
It seems that Ms. Wong has learned a little bit about some history of the use of street drugs, and I am wondering, if an investigator learns about the use of street drugs and that is not consistent with reports that are subsequently given, either through the nurse's counsel or through the reports that are put together by psychologists or addiction specialists, to what extent does the College intervene and say we think we have got different information?
A. So all of the information that the investigator collects is provided to the independent medical examiner, and it is -- the independent medical examiner is appointed or approved by the Inquiries, Complaints and Reports Committee. In this case, it would have been the Executive Committee. And the panel relies on the expert assessment and the expert advice of the independent medical examiner.
Q. I assume that the importance

of giving that information would be that the use of street drugs followed by the overdose of prescription drugs could be relevant to an addiction analysis; would you agree?

A. Yes.

Q. If you could go to the next tab, tab 5, which is document 37305. This is a December 13, 1995 letter from Ms. Wettlaufer's then lawyer Ms. McIntyre. In the third paragraph, the second sentence, Ms. McIntyre says:

"She has no history of drug addiction or of drug usage."

And so in the context of a capacity concern, to what extent is it a concern for the College when a nurse or their counsel inaccurately characterizes the nurse's medical history or drug use history?

A. Well, the College has -- this is one piece of information that informs the College's assessment. It is not definitive, and we would not rely on the report of the member's counsel or the member's personal treating health professional.

We would ensure that there was an independent assessment of the information that the College had and of the member's health.

So it is possible that counsel was told by the client that they have no history of drug addiction or drug usage.

Q. And you are confident that

the independent medical examiner would have received the entirety of Ms. Wong's report?

A. Yes, that is our process.

Q. That is your process.

Can you go to tab 7 of the documents you have there. This is the Memorandum of Agreement between the College of Nurses and Ms. Parker, and it is document 36838.

Now, one of the things I note is that we are getting close to two years from the date of the initial incident when Ms. Wettlaufer had the overdose at Geraldton Hospital, and just for my understanding, is that a typical time frame to come to an agreement in the context of a capacity issue that the College is investigating?

A. It may have been at that time. I honestly don't know. And I would think that that is probably the longest time that it would take.

It really depends on the ability to get health records, to schedule appointments with medical experts, and so that process can take time.

What I will tell you is that -- and I am speaking now to our current process.

Q. Yes.

A. Is that there is an assessment by the Inquiry's Complaints and Reports Committee panel to determine whether there is current concern about risk of harm,

and it is very often that counsel will provide assurances to the panel that the member is not practising and will not practise until the matter is resolved.

Q. Well, let's actually talk about what happened after Geraldton. In that interim period, Ms. Wettlaufer was practising and she was working with a different kind of vulnerable population, but a vulnerable population nonetheless.

During that time, what sort of monitoring, if any, did the College provide before this Memorandum of Agreement was entered into?

A. I am only going on what I have seen in the record --

Q. I understand.

A. -- and my understanding of the process at the time, and that was that the process was unfolding. So I can't assist you with any additional information about monitoring.

Q. Because this Memorandum of Agreement contemplates providing notice to her then employer, Christian Horizons?

A. That's correct.

Q. But it doesn't contemplate any notice to the Geraldton District Association we were talking about, that care home?

A. That's correct, and that is one of the reasons that the College advocated

for, along with other regulators, to have the legislation changed so that there was the opportunity for earlier consideration of interim suspension or terms, limits and conditions.

Q. With respect to the Schedule "A", could you go to paragraph numbered 13 in the Schedule "A". It is three pages from the back, if that is helpful, of that tab, within that tab.

A. Which tab? Oh, the same tab?

Q. The same tab, three pages from the back within that tab.

A. Thank you.

Q. So 13. Thank you. This talks about the length of time that the conditions shall stay in force. It says, though, halfway through the paragraph:

"The length of time the[se] conditions are in effect may be extended beyond one year, should the College receive information that the Member has relapsed to the use of alcohol."

So my question is if Meadow Park had informed the College of Nurses that Ms. Wettlaufer had disclosed to them an alcohol problem, could this order have been revived in any way?

MS. CORRENTE: I am going to object to that on the basis that it is speculative. I don't

believe that we have established with this witness that there was any mandatory reporting obligation in view of the legislation, the current legislation that was put to her, rather than the legislation that existed at the time.

And in the absence of any obligation to report, I think it is quite speculative to speculate on what the College would have done if it would have received information that would have been voluntary, especially in view of the fact that this witness has testified that as part of the assessment process, the information that is looked at includes a report from the employer, which would not have existed if there was no mandatory report, and discussions with the reporter which would not have happened if there is no reporter.

So there is a lot of "if's", if this and if that, and I think that it is just a very, you know, speculative line of questioning in view of evidence that has not been given.

MR. VAN KRALINGEN: Sorry, I want to be clear, I don't concede at all that there wasn't a mandatory obligation to report or an obligation on Meadow Park to report. But my simple question was if a report had been made, would there be an implication of paragraph 13?
MS. CORRENTE: Well, I find that questioning problematic because we first need to establish that there was an obligation to make a mandatory report, which hasn't been established, so --
THE COMMISSIONER: Well, I don't understand that as a foundation. He is just saying if there had been, wasn't the question --
MR. VAN KRALINGEN: That is exactly right.
THE COMMISSIONER: Not whether if it was required or anything, but just if there had been a report.
MS. CORRENTE: I still think that if there had been a report, it would have been -- it is a speculative line of questioning in view of the fact that this witness has testified about the process for assessment when

there is a report, and that includes looking at a report which we don't have and speaking to people which have not been able to give information.
So how can you come to an assessment as to risk in the absence of that kind of information?
MR. VAN KRALINGEN: This doesn't say a report. It says "information".
THE COMMISSIONER: So and your question again was, if it had received, if the College had received information about the relapse in the use of alcohol, was that what you were saying?
MR. VAN KRALINGEN: Yes.
THE COMMISSIONER: Then what would it have done? Do you have to tie your question to Meadow Park?
MR. VAN KRALINGEN: No, but I live in the real world, and we know that this happened after Meadow Park. Like let's --
THE COMMISSIONER: But --
MR. VAN KRALINGEN: Well, I can put it in the abstract.
THE COMMISSIONER: Yes, and I think that is what we want to

know.
MR. VAN KRALINGEN: That's right.
THE COMMISSIONER: It doesn't matter how. But if the College had become aware that the member had relapsed with the use of alcohol, what was the balance of your question?
BY MR. VAN KRALINGEN:
Q. Could paragraph 13 of this Memorandum of Agreement have been revived?
A. Only if that happened during the monitoring period. So once the monitoring period concluded and the independent medical examiner identified that the member was fit for work, this process came to an end and information -- future information would trigger a new health inquiry.
Q. Just so I'm clear, have you received legal advice on that, or is that your interpretation of the document?
A. I have not received legal advice, but my understanding is that health inquiries, you can't re-open an undertaking. You have to -- once the undertaking comes to an end and the term has ended, then if there -- let's say it is a year later, then the College would initiate a new health inquiry.
Q. Can you go to tab 10 of the yellow brief of documents you have got before you. This is document 36841. This is the

Report Form for the Facility Operators and Employers.

THE COMMISSIONER: What tab again, Counsel?

BY MR. VAN KRALINGEN:

Q. Tab 10, please.

I am going to just start with an obvious question. I assume -- can I assume that your expectation is that the employer lists the nurse's entire discipline history?

A. Our expectation is that the employer lists the incidents which give cause for concern about the nurse's safety to practice.

Employers discipline employees for a variety of reasons, so we do not characterize the information as a way to determine what to report to the College.

Q. Can you look at the second-last page within that tab, and I believe it is page 13. This is the August 29, 2012 -- or reference to the August 29th, 2012 incident, and you will agree with me that there was no reference within this entry to a concern about resident safety?

A. There is no concern, is that your question?

Q. That there is no concern within this entry with respect to resident safety?

A. That's correct.

Q. Can you go to tab 21 of the

documents that you have, and this is document 16823.

A. Yes.

Q. This is a Disciplinary Action Form that the Intake Investigator would not have had in 2014; correct?

A. That's correct.

Q. And it is in connection with, although it is dated August 31, it is in connection with an incident dated August 29th; do you see that?

A. Yes.

Q. Can you cycle down to the bottom of the page?

On the bottom left-hand portion of the page it indicates:

"Explained to Bethe that she brought her health issues to us and we are obliged to ensure the safety of the residents."

Do you see that?

A. Yes, I do.

Q. If Caressant Care had a concern about resident safety in connection with this particular incident, do you believe they should have included it on the Employer Report Form?

A. Absolutely.

Q. Within the narrative in the middle of the page - and just a little bit down, if you don't mind, perfect - there is a reference in the second sentence that says:

"If continued poor work performance related to health issues continue, consideration may be given to report to the College of nurses for 'fitness to practice for review'."

To your mind, is the reference to the fitness to practice for review a discretionary decision on behalf of the employer or is it a mandatory decision?

A. If there are concerns about the capacity, and that is what our fitness to practice process engages, then that is a mandatory report.

Q. Ms. Yee did not have this document in 2014?

A. She did not.

Q. If she had this document, do you think she could have compared it to the Employer Report Form and perhaps asked some pointed questions about this incident?

A. Yes, I do.

Q. Could you go to tab 13 of the documents you have. Can you explain the circumstances where there is a 30-day reporting period versus the immediate reporting obligation? We'll get to the documents in a moment. I just want your --

A. Oh, I'm sorry, I thought you --

Q. That's all right. Can you give me your best understanding of when there

is the 30-day obligation versus the immediate obligation?

A. The immediate obligation is where there is a continued risk, where the individual poses a continued risk of harm to --

Q. And we discussed that and we discussed what "continued risk" means earlier today?

A. Yes.

Q. I'm going to ask you to pull up the transcript of Ms. Hepting's cross-examination.

For your notes and your record, Madam Commissioner, it is Day 16, June 27th, and it is page 3735 and 3736, starting at line 25.

Could you cycle down?

I'm just going to review a small excerpt of Ms. Hepting's cross-examination, and then I'm going to ask for your response as to whether you believe Caressant Care should have reported immediately or should have reported on the 30-day time frame.

Before doing that, let's look at -- well, there is a reference to an email that I will show you in a second, but it says:

"Question: And in your email, as we reviewed earlier today, second from the top you indicate:

'[...] she appears to be a danger to resident's welfare.'

I assume you believed that at the time you wrote it.
Answer: Yes.
Question: And you will agree with me that as of this day, you believe that Ms. Wettlaufer would be a danger to any resident anywhere?
Answer: As of?
Question: This date, as of the date you wrote this note, did you believe that Ms. Wettlaufer would be a danger to any resident anywhere?
Answer: Well, I was concerned about our residents, but yes.
Question: And just to understand your answer, you were particularly concerned about your residents, but you also assumed that she would be a danger to any resident anywhere?
Answer: Given the history that I had in front of me of her disciplines, yes."
If Ms. Hepting, as of March 31, 2014, as the Vice President of Operations for Caressant Care felt that Ms. Wettlaufer would be a danger to any resident anywhere she subsequently would have worked, to your mind, would that have required Caressant Care to make an immediate report to the College?

A. Yes, it would, and that report should include the fact that they were of the belief that she did pose a danger to residents.

Q. Do you believe that the manner in which Caressant Care reported Ms. Wettlaufer's termination reflected that urgency?

A. No, it did not.

Q. During the course of the College's intake investigation, was -- actually, go to tab 11, document 72096. Let's just pull up the email that I was just referencing in my question to you.

This was an email between the four members of Caressant Care's most senior management team. The second email from the top was Ms. Hepting indicating that "[...] she appears to be a danger to [a] resident's welfare", and the top email is from Mr. Dengate, the VP of Finance, indicating that "[...] her actions are very dangerous."

During the course of the College's intake investigation, was this email brought to Ms. Yee's attention?

A. No, it was not.

Q. Would you have expected it to be brought to Ms. Yee's attention?

A. I would have expected --

MR. GOLDEN: I have a -- this is where I have a problem. We had a lot of evidence over the fact

that Tim Dengate is an accountant, not a nurse. This witness does not know that.
We also know that Ms. Hepting is specifically referring to the incident which led to the termination. And out of context, she is being shown this email without having any of that context.
And you know, yes, we can have a debate and we will have a debate over whether when a cover letter says "putting residents at risk" is sufficient or not, but to show and point to Tim Dengate, who was a financial officer, and without this witness knowing and hearing that evidence and to draw an inference from it, I don't think it is fair.
THE COMMISSIONER: I am troubled by the absence of a foundation for this. I mean, it is quite different. And my understanding is that the underlying incident that has triggered this email chain is disclosed in the -- it is the very first incident. It is the incident that led to the termination, right?
MR. VAN KRALINGEN: I understand

that. All I'm asking is whether this email should have been -- was this email provided to Ms. Yee and whether Ms. Coghlan thinks it should have been provided to Ms. Yee, because it goes towards the question of urgency, even if it is one issue or many issues.

THE COMMISSIONER: I am not comfortable with the foundation that has been laid for this witness, frankly.

I mean, the incident that prompted the termination is the very incident that is under discussion in these emails, and clearly the Director of Nursing and the Administrator thought that it was worth terminating her for. So they gave that information to the College.

And so what are you asking, that they should have included an email exchange amongst the head office people that agreed that she should be terminated before they terminated her?

MR. VAN KRALINGEN: I actually think if it goes to the question of urgency of the issue, I actually do think so, because

the way it is framed right now, it is framed as it is mailed; it is within the 30-daytime frame.

THE COMMISSIONER: I don't have any problem with your question which was based on this, the last question of whether it should be urgent.

But what I am saying is I don't understand how the email is attached to the question of the report. It is in the report. It is the terminating event, and it is there. The report doesn't require a chain of emails behind it.

So are you suggesting -- that's my problem.

MR. VAN KRALINGEN: I am going to move on, actually.

MS. ROTHSTEIN: Commissioner, I was just going to say that I actually think it might be of some benefit to you to hear from Ms. Coghlan because she has told you that the way employers view events and how they characterize them is actually very important to the College and it relies on it, because termination isn't the same as dangerousness.

But I think it would be

interesting actually just to hear from her whether it changes her view that it is from an accountant as opposed to a Director of Nursing. I think I have a sense of what she might say about that, but it might be of some benefit to you to know.

MR. VAN KRALINGEN: It is actually my examination and I would like to move on, if that is all right.

MS. ROTHSTEIN: Okay, fair enough. Fair enough.

BY MR. VAN KRALINGEN:

Q. Thank you. If we could go to tab 13 of the documents you have. This is the Mandatory Reporting Guide, and it is document 60161, and I want it to be clear this is the reporting guide that was in effect at the time of Ms. Wettlaufer's termination from Caressant Care.

I just want to understand, you have an understanding of the role of an administrator at a long-term care home; is that fair to say?

A. I do. I wouldn't say it is an expert understanding, but I have a general understanding.

Q. And similarly, you have an understanding of the role of a Director of Nursing, sometimes called a Director of Care at

a long-term care home?

A. I do.

Q. I wasn't clear from yesterday, do you believe that those two people would qualify as facility operators pursuant to this Mandatory Reporting Guide?

A. Facility -- yes.

Q. Okay.

A. Yes.

Q. And similarly --

A. Because that -- they are operating a facility where nursing care is being provided.

Q. And do you see any distinction between the local Administrator and the local Director of Nursing or Director of Care at an individual long-term care home and management of a company that has numerous long-term care homes? Could those members of management also be facility operators under this mandatory reporting scheme?

A. Yes, they could be. That, as I think I said yesterday, that is up to the organization to decide how they meet their obligation under the legislation for facility operators.

Q. With respect to employers, you were talking about with Ms. Jones the idea of somebody being a facility operator but somebody who actually pays the nurse, an external agency of some sort, placing someone there.

In some circumstances, in certain statutory codes and even in the common law, there can be multiple people who can be deemed to be an employer, and I am wondering, to your mind, is it possible under this Mandatory Reporting Guide that both the facility and an external provider of the nurse can both qualify as an employer for the purposes of mandatory reporting?

A. There are times when that is the case.

Q. Do you provide any guidance to either external providers or facilities who use external providers about their role as an employer pursuant to this Mandatory Reporting Guide?

A. I am not sure I understand your question, I'm sorry.

Q. Is there any guidance ever provided to either an external provider of nurses to facilities, such as Lifeguard Homecare, or facilities themselves who employ external nurses that they might jointly be employers for the purposes of this mandatory reporting scheme?

A. So the Mandatory Reporting Guide is an attempt by the College to assist employers and facility operators to understand their obligations, and we also respond to inquiries and encourage employers or facility operators who have questions about their obligations to call the College for assistance.

Q. Can you go to tab 15 of the documents that you have before you. That is document 60138. It is called Reports Intake Process, prepared by Andrea Boddy in April of 2010. Can you just tell me the purpose of this document and what it is used for?

A. So this was prepared by an investigator at the time to document the process. It was used for orientation of new investigators and also to -- as a reference document for use by investigators.

Q. If you could go to page 5, it contemplates in the middle of the page "Making Inquiries of Former/Current Employer (Other Than the Reporter)", and it indicates:

"We will often call other former or current employers of the member if this information would assist us in determining the appropriate response by the College"?

A. That's correct.

Q. What guidance do you give -- pardon me, what guidance does the College give to its Intake Investigators to determine whether a current employer could provide helpful information?

A. That is the judgment that they exercise as they are going through their risk assessment.

Q. And so the answer is there is no guidance; you just assume that people are

going to use their best judgment in these moments?

A. I am not aware of specific guidance, but it may well be part of the orientation and mentoring that they receive from other investigators.

Q. Can you please go to tab 19 of the documents you have. This is document 36847. This is the summary prepared on July 30th by Karen Yee after her contact with Ms. Crombez, and just so I'm clear, do you receive this document at any point?

A. Yes, it was part of the intake file that I received.

Q. I see. So there is a reference to the mood-related or anxiety condition, if you go down. Thank you.

Was there ever an effort on your part to try and better understand the nature of that condition?

A. No, not that I recall.

Q. It also says a few bullets down that:

"The reported incidents go back to 2012."

If there had been further details on incidents before 2012, do you believe it would have affected your process and your review of this document?

A. I would say that it would depend on the nature of those incidents. Having now seen prior incidents, yes, it would

have had an impact.

Q. Can you go to the second page, please. Three bullets down on the second page it says:

"There was no sustained harm to the residents involved in the incidents."

How significant was that comment to your review?

A. I would say that it is a minor consideration. As I said earlier, the potential risk of harm is -- it factors into my consideration.

Q. Well, does actual harm factor in --

A. And actual, absolutely.

Q. That is what I was trying to suggest.

A. Yes.

Q. If there had been a discussion of actual harm as opposed to a comment that there was no sustained harm, would that have affected your review in any way?

A. Depending on the nature of the harm, yes, it would have, yes.

And just to be clear, and this may be helpful, harm can take a lot of different forms. So if I see a comment "no sustained harm" but a client has been embarrassed, I consider that harm. So that is what I just want to be clear about.

Q. Could you go to tab 23 of the

documents you have before you. It is document 17578. This is the letter dated September 25th, 2014, from Ms. Wettlaufer to Meadow Park. And I'll just let everyone pull it up, actually.

We have seen this before. The last sentence says that Ms. Wettlaufer was tendering her resignation effective October 15, 2014; do you see that?

A. Yes, I do.

Q. And so in effect, Ms. Wettlaufer was providing a period of working notice or notice of some sort to Meadow Park; would you agree?

A. That is possible.

Q. For the purposes of the College's mandatory reporting requirements, on September the 26th, the day after, would you have deemed Ms. Wettlaufer to have been working for Meadow Park?

A. Well, if she is tendering her resignation effective October 15th, then she still is in their employ on September 26th.

Q. Can you go to the next tab then, tab 24. This is document 53318.

THE REPORTER: Mr. Van Kralingen, would you mind if we had a moment to switch our audio feed and to switch reporters?

MR. VAN KRALINGEN: Of course you can, yes.

-- RECESSED AT 4:08 P.M.

-- RESUMED AT 4:08 P.M.

BY MR. VAN KRALINGEN:

Q. This is a report from the London Police Service, and although it indicates -- and the report is dated October 2nd, 2014, and when we had Ms. Nicholas on the stand, she indicated that she believes that this actually reflects a report of the London Police Service talking to multiple people from Meadow Park. The second page says, if you look at it, it says:

"Why do you believe Elizabeth is responsible?"

And when we say "responsible," we're talking about taking the narcotics at the time. The answer is:

"Yesterday afternoon, Bethe came into my office. She had resigned to say she was leaving us for medical reasons, and her last day is to be October 15, 2014. And so she worked September 26, 2014. It's on the roster. She came into my office yesterday. I asked Valerie to be in the office. She had missed days at work. She had brought a doctor's note in and said she has an alcohol and drug problem, and she said she almost died last weekend."

So my question to you is this:

If Ms. Wettlaufer had disclosed an alcohol and drug problem during her period of working notice, do you believe that Meadow Park should have reported that.

A. Yes.

Q. My next question is with respect to the standard of proof that a home must have with respect to an allegation of stealing medication. If a long-term care home has reasonable grounds to believe that a nurse has stolen hydromorphone, are those reasonable grounds alone enough to prompt a report to the College?

A. Yes.

Q. So the College does not require certainty as to whether the nurse stole the drugs in question?

A. Not at that stage. The College would conduct its own investigation.

Q. If you go to tab 25 of the documents you have?

THE COMMISSIONER: Sorry. The matters under investigation by the police, the College would investigate?

THE WITNESS: Sorry, I wasn't clear that the matter was under investigation by the police. If that was the case, then we would wait for the police investigation, but we would initiate our own investigation.

THE COMMISSIONER: Okay, that's what I thought. I just thought it would be clear because otherwise, it sounded like they would initiate.

BY MR. VAN KRALINGEN:

Q. I appreciate that. Thank you. If we go to tab 25 of the documents you have, and this is Document 17598.

This is an e-mail from Heather Nicholas, who was the director of care at Meadow Park, to Jennifer Brown, who was a care services co-ordinator at Jarlette Health Services, and just for your benefit, Jarlette owns Meadow Park. But halfway through the e-mail, it says:

"The RN in question interestingly had come to me on September 30th, 2014, to me that she had a terrible weekend and had been in hospital with an overdose and that she had an alcohol and drug addiction. I did convey that to the police."

Just so I'm clear based on our earlier conversation about facility operators, do you believe that Jarlette Health Services should have reported this to the College?

A. Yes.

Q. During the course of my conversation with Ms. Nicholas, she indicated to me that she had an expectation that

Ms. Wettlaufer would self-report or self-disclose her alcohol and drug problem to the College.

Given your experience, in your opinion, is it reasonable for an employer or facility operator to wait for a nurse to self-disclose an alcohol and drug problem?

A. No, it's not. The nature of the disease is such that the nurse often lacks insight and the ability to make that judgment.

Q. Luckily for you, my last document is tab 26. It's Document 36840. This is the October 14, 2014, letter from the College indicating that they were going to bank the information with notice.

Based on your experience, if the College been informed of the circumstances of Ms. Wettlaufer's departure from Meadow Park before October 14th, do you believe that the content of this letter would have changed?

A. Yes. The letter would be advising the member that Section 57 inquiry was being commenced, which is a health investigation.

Q. And based on our experience, if after October 14, 2014, if you had learned about the circumstances surrounding Ms. Wettlaufer's resignation from Meadow Park and Meadow Park's suspicions regarding who took the hydromorphone, what, if any, process would that have prompted?

A. That as well would have

prompted me to initiate a health inquiry.

Q. Based on your experience, what do you believe the outcome would have been?

A. The results of the health inquiry would be referred to the inquiry's complaints and reports committee who would have considered whether there was a need for an interim suspension.

MR. VAN KRALINGEN: Thank you kindly for your time today.

THE COMMISSIONER: Thank you, Mr. Van Kralingen.

MS. JONES: Madam Commissioner, we have not yet had an afternoon recess. I wonder if we might do that at least briefly for the sake of the witness.

THE COMMISSIONER: Yes, we can do that. I'm just trying to -- it's quarter after 4.

MS. JONES: Yes.

THE COMMISSIONER: If we break and take a normal break, it would be 4:30. That's often the time we finish, so perhaps we should assess where we're at and decide what's the best way to proceed.

MS. JONES: Sure. Perhaps I'll consult with Mr. Scott, who's up next.

MR. SCOTT: I probably have only 10 or 15 minutes, Your Honour. It might take us to the end of the day.
THE COMMISSIONER: In light of that, perhaps it makes more sense just to go ahead and finish at 4:30.
MS. JONES: Thank you.
THE COMMISSIONER: Do you have a sense, Ms. Jones, of where you're at in terms of cross-examination time, how much time we'll be in tomorrow?
MS. JONES: I expect I'll have to consult and get updated time, Madam Commissioner, but I would expect an hour and half or two hours, at least.
THE COMMISSIONER: It's essential, yes. So then, in my view, I think we're better, if you can stand it for another --
THE WITNESS: Yes.
THE COMMISSIONER: -- 15 without a break, I think we're better to just carry on and finish today around 4:30-ish and call it a day. Thank you.
CROSS-EXAMINATION BY MR. SCOTT:
Q. Good afternoon, Ms. Coghlan. My name's Paul Scott. I'm a lawyer for one of

the other Family Groups. I've got a few questions for you today. I want to just touch back on a question that my friend asked you earlier, fortunately not one of the contentious questions, one of the easier ones.

You'd mentioned that there had been an increase in the number of reports from employers?

A. Yes.

Q. And was it 2017?

A. 2018.

Q. 2018. And what I'd like to know is if you have any idea why there has been an increase?

A. It is an assumption that the awareness of employer reports has risen and that there is heightened concern, heightened attention, if you will, to employers' obligations to make reports to the College.

Q. Okay. And is the College tracking those reports?

A. Yes.

Q. And I just want to be clear for myself and for the public that not all nurses working in Ontario have to be a member of the Nurses Union, correct?

A. That's correct.

Q. But all nurses working in the Province of Ontario have to be members of the College; is that correct?

A. That's correct.

Q. And so you told us earlier

that the College, your first priority is to look out for the public; is that correct?

A. That is correct.

Q. But does the College act as an advocate for the nurses in Ontario as well?

A. No, it does not.

Q. So it has no advocacy role for them?

A. No, it does not.

Q. Does it provide them with services; for example, if a nurse is having difficulties, is there some kind of a number they can call and get counselling of any description?

A. No, it does not.

Q. So that's not something the College deals with at all for the nurses?

A. That's correct.

Q. Okay. So we've also talked a little bit about having employers and facilities report to the College of incidents with respect to nurses. We've talked about that a lot today, correct?

A. Yes.

Q. Okay. The one thing I do wonder, though, is does the College have the authority to request that the facilities or the employers advise them if there's been any patient care issues? Do you understand my question?

A. I think I do.

Q. Okay, good for you.

A. And absent the legislation that outlines the criteria for mandatory reports, the College has no authority to require.

Q. Right. And that is the crux of my question. The College can't say to the facilities: The College demands that you let us know if you have a problem with a nurse?

A. That's correct. And, in fact, not all problems with nurses require the College to intervene. Many issues are addressed appropriately in the workplace.

Q. Okay. And so you've told me a moment ago that the College is not an advocate for the nurses, correct?

A. That's correct.

Q. But does the College educate itself around the working conditions of the nurses in the Province of Ontario?

A. The College has awareness by virtue of its stakeholder collaboration and engagement. So I mentioned earlier the Joint Provincial Nursing Committee which brings together all of the different groups that have a connection to nursing in the province, and that's an example of a forum where we would hear about working conditions.

Q. Okay. And when did that start, again?

A. Oh, I think it's been going for over 20 years.

Q. Okay. And so would the

College be aware that nurses, RNs specifically, working in long-term care facilities might be responsible for a hundred patients on a night shift?

A. We may gather that information in the course of an investigation, yes. It may be information that comes to our attention through our regulatory work.

Q. But it wouldn't be something, it wouldn't be information that you would gather?

A. That's correct.

Q. And any kind of information like that does the College gather on the nurses' working conditions? I'm thinking about their wages.

A. No.

Q. What sort of things they have to face in a long-term care home in terms of, you know, stress?

A. No.

Q. And would that apply to hospitals and the community as well?

A. That's correct. That would be the role of the Professional Association and the Union.

Q. Okay. But if they're not a member of the Union, who would be looking at those items for the nurses?

A. The Union and the professional associations look at system issues, not just issues related to their

individual members.

Q. And do they act as an advocate for the nurses?

A. They do.

Q. And you told us also that potential employers have no more information from the College than the public has; is that correct?

A. That's correct.

Q. And does it seem to you that that may not be the best situation? For this reason, if I'm an employer and I have to hire a nurse and then she's going to be exposed to 20, 50, 100 of my patients or my clients, would it not be good for the employer to have more information about that person than the general public so that they can make an informed decision about hiring?

A. Yes, I agree that it would, and I think there are a variety of sources of that information, and that's why it is critical that previous employers provide references and information that will assist a prospective employer in making their determination about whether this individual meets their specific needs.

The employer is in the best position to assess whether an individual is a fit with their particular practice environment and the needs of the residents or clients in that environment.

Q. Do you believe that the

College could play a role in that as well, though?

A. I think the College plays a role in terms of the information that the College has by virtue of its regulatory function, and we have endeavored to enhance the sharing of information with the public, which includes employers, to ensure that they have that information.

Q. But would you agree with me that it might be helpful for an employer to be able to contact the College, give an undertaking, and be provided with information that the College has that the public does not?

A. What kind of information are you referring to?

Q. Well, for example, no one would know that Elizabeth Wettlaufer had had an issue with Geraldton Hospital in 1995, '96, '97, correct?

A. That's correct.

Q. And she didn't disclose that to any of the employers as far as we know.

A. Um...

Q. But the College had that information.

A. So the prospective employers for a period of six years had the opportunity to inquire with the College as to whether there was information that was publicly available that would be of assistance to the employer.

So that's an example of the

College providing information that comes through its regulatory processes.

Q. Yes, I appreciate that, and you clarified that for us earlier. So you're in agreement with there being a bit of a sunset clause on that type of information?

A. That was the legislative regime at the time that has been changed in an effort to enhance the transparency of information being (indecipherable).

Q. Okay.

THE REPORTER: Sorry, I didn't hear the last part of that.

THE COMMISSIONER: She didn't hear your full answer.

MR. SCOTT: I think I hit the microphone.

THE COMMISSIONER: That's part of the legislative change?

THE WITNESS: Yes, that's part of the legislative change to enhance transparency of information, and that means that that information stays on the public register indefinitely.

BY MR. SCOTT:

Q. Thank you. And finally, you've told us that complaints about a member must be done in writing; is that correct?

A. Yes. Or some documented version. So for example, we would -- if an individual required to use an alternate means

such as a recording, that would be accepted.

Q. Fair enough. And you've talked a little bit about this practice at the point of care; do you recall that?

A. Yes.

Q. And what I took you to mean was that other health care members of a team in the facility, they would be working with this nurse or this person, and they would be in a better or a more unique position to see what this nurse is doing or not doing; is that correct?

A. That's correct.

Q. And that person would be in a unique position to provide information to the College if they think there's a problem; is that correct?

A. It is correct, and members are encouraged to use the mechanisms within their workplace. So part of the standards are to make sure that they do report incidents to the appropriate role within their setting, so that may be a nurse manager or a director of care, and those are the individuals that we would expect would be making information available to the College because they are in the employer role as opposed to a colleague.

Where the colleague has a mandatory report is in relation to sexual abuse.

Q. And we heard about that in the Facilities phase about management and the

nurses, but for lack of a better term, wouldn't it be advantageous for the other nurse to be able to cut out the middle man -- in this case, being the middle man, their employer -- and just be able to speak directly to the College?

A. There's nothing to prevent them from doing that. It just isn't required.

Q. But if they do it via a phone call, then that won't be investigated, will it?

A. It depends what information is provided.

Q. So it would be open to a nurse who has concerns about a colleague to call the College directly --

A. Yes.

Q. -- and provide information to the College about their concerns --

A. Yes.

Q. -- and in that case, the College may take steps to investigate that?

A. Yes. And, in fact, we do get those calls; and, for example, one of the actions that an intake investigator would take would be to contact the employer to determine whether there is additional information that the employer has that substantiates the information that's been received through the phone call.

Q. And would the person making the phone call, would their identity be kept confidential?

A. At that point, yes.

Q. Okay.

A. Yes. We would make an inquiry indicating that the College had received information. We don't disclose at that point where we've received information inquiring about the practice of that nurse.

Q. And would that information be stored at the College?

A. Yes, it would be. We retain all information.

Q. And so if another complaint came in about that same nurse, the earlier complaint could be looked at --

A. Absolutely.

Q. And do you believe that your members are aware of that?

A. Yes, they are. They are informed of that.

MR. SCOTT: Thank you very much. Those are my questions.

THE WITNESS: Thank you.

THE COMMISSIONER: Thank you, Mr. Scott. Right. I think that we are finished for the day now.

MS. JONES: Thank you, Commissioner.

-- Adjourned at 4:27 p.m.

REPORTER'S CERTIFICATE

We, DEANA SANTEDICOLA, RPR, CRR, CSR, Certified Shorthand Reporter, and OLIVIA ARNAUD, CSR, Certified Shorthand Reporter, do certify:

That the foregoing proceedings were taken before us at the time and place therein set forth;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by us and were thereafter transcribed;

That the foregoing is a true and correct transcript of our shorthand notes so taken.

Dated this 25th day of July, 2018.

NEESON COURT REPORTING INC.
PER: DEANA SANTEDICOLA, RPR, CRR, CSR
& OLIVIA ARNAUD, CSR

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