

THE HIGH COURT

[2005 No. 85 SP]

BETWEEN

GLORIA PEREZ

APPLICANT

AND
AN BORD ALTRANAIS

RESPONDENT

Judgment of Mr. Justice Diarmuid B. O'Donovan delivered on the 29th day of November, 2005.

1. In a report dated the 29th day of July, 2004, following an inquiry held pursuant to the provisions of s. 38 of the Nurses Act, 1985, the Fitness to Practice Committee of An Bord Altranais found that the applicant, Gloria Perez, was guilty of professional misconduct in respect of several of the allegations detailed in the said report. Given that those allegations were considered in detail in the course of the hearing of these proceedings and that each of them is the subject of an adjudication herein, it is unnecessary, I think, that I should review them at this stage.

2. Following the said report and in consequence thereof, it was decided by the said Committee at a meeting held on the 10th day of February, 2005, that the name of the applicant be erased from the register of nurses pursuant to the provisions of s. 39(1) of the Nurses Act, 1985.

3. The applicant has challenged the said decision of An Bord Altranais on the grounds (*inter alia*) that the said Committee erred in law and/or in fact in its conduct, determination and finding that the applicant was guilty of professional misconduct and has appealed to the court pursuant to the provisions of s. 39 of the Nurses Act, 1985 against the decision to erase her name from the said register.

4. The general allegation against Gloria Perez is that, notwithstanding long training, she has persistently failed to acquire adequate knowledge of her duties and has consistent difficulty with basic nursing skills which it is alleged amounts to "professional misconduct". In this regard, by virtue of the provisions of s. 6 of the said Act of 1985, An Bord Altranais has a responsibility (*inter alia*) to promote high standards of professional conduct among nurses and by virtue of the provisions of s. 38(1) of the said Act, is empowered (*inter alia*) to apply to a Fitness to Practice Committee, within the meaning of s. 13(2) of the Act, to inquire into the fitness of a nurse to practise on the grounds of misconduct. The expression "professional misconduct" in the Nurses Act, 1985, is not defined in the Act. However, its meaning was considered by Mr. Justice Ronan Keane in the course of a judgment which he delivered on the 27th day of January, 1995 in a case of *Sean Antoine O'Laoire v. The Medical Council* (1993 No. 552 SP); a case which was concerned with the provisions of s. 46(1) of the Medical Practitioners Act, 1978, the provisions of which are analogous to those of s. 39 of the Nurses Act, 1985 and, having referred to a number of what he perceived to be relevant authorities, he concluded (*inter alia*); (1) that conduct which is "infamous" or "disgraceful" in a professional respect is "professional misconduct", (2) that conduct which would not be "infamous" or "disgraceful" in any other person, if done by a medical practitioner in relation to his profession, may be considered as "infamous" or "disgraceful" conduct in a professional respect, and (3) while "infamous" or "disgraceful" conduct is conduct involving some degree of moral turpitude, fraud or dishonesty, conduct which could not properly be characterised as "infamous" or "disgraceful" and which does not involve any degree of moral turpitude, fraud or dishonesty may still constitute "professional misconduct" if it is conduct connected with his profession in which the medical practitioner concerned has seriously fallen short, by omission or commission, of the standards of conduct expected amongst medical practitioners. In that regard, Mr. Justice Keane adopted the decision of the Privy Council in England in a case of *Doughty v. General Dental Council* [1987] [3 A.E.R. at p. 844] which decided that serious professional misconduct denoted a serious falling short, whether by omission or commission, of the standards of conduct expected amongst dentists. In my view, the principles declared by Mr. Justice Keane in O'Laoire's case with regard to medical practitioners and by the Privy Council in *Doughty's* case with regard to dentists are equally applicable to the nursing profession so that "professional misconduct", so far as a nurse is concerned, is a serious falling short, whether by omission or commission, of the standards of conduct expected among nurses and it is irrelevant that such misconduct may be attributable to honest mistake. In that regard, I would adopt the statement by Lord Hoffmann in the course of a judgment which he delivered in a case of *David Noel McCandless v. The General Medical Council* (the Weekly Law Reports, 16th February, 1996) that "there is a duty to protect the public against the genially incompetent as well as the deliberate wrongdoers".

5. The foregoing begs the question how does one determine what are the standards of conduct expected among nurses? In this regard, An Bord Altranais has published a code of professional conduct for nurses and, by virtue of the provisions of s. 39(9) of the said Act of 1985, the court may have regard to the evidence of any person of standing in the nursing profession as to what is professional misconduct. Accordingly, when determining whether or not the allegations against Gloria Perez have been established, I propose to rely on the provisions of the said code of conduct and on the evidence of the several members of the nursing profession who gave evidence before me. In this regard, I am satisfied that the onus is on An Bord Altranais to prove every relevant fact, save those facts which have been admitted by Gloria Perez, and to establish that such facts, so proved, or admitted constitute "professional misconduct" in the light of the legal principles herein before referred to. Moreover, it has been conceded on behalf of the respondent that the standard of proof required of the respondent is beyond any reasonable doubt.

6. In their report dated the 29th day of July, 2004, following the inquiry which it held under the provisions of s. 38 of the Nurses Act, 1985, the Fitness to Practice Committee of the respondent board held that between 16th December, 2002 and the end of August, 2003, when she was a staff nurse employed at Craddock House Nursing Home and Care Centre, Craddockstown Road, Naas, Co. Kildare, the professional conduct of Gloria Perez fell seriously short of the standard of conduct expected among nurses in the following respects;

(i) information about patients communicated at handover reports or otherwise,

(ii) aseptic techniques and hygiene, particularly in the context of dressings

(iii) on 14th April, 2003 she gave medication to a wrong resident and, when queried, denied that she had given medication to a wrong resident, claiming that she had poured the medication down the sink, before finally admitting that she had, in fact, given that medication to the wrong resident, and

(iv) Placing dirty swabs on a patient's breakfast tray.

7. In the said report, the said Fitness to Practice Committee also noted that the applicant, Gloria Perez, admitted;

(i) that, on or about 15th January, 2003, while working with Bríd Gallagher, Director of Nursing, she failed to wash her hands after doing a dressing for one patient and before proceeding to attend to another patient,

(ii) that she failed to maintain clear and accurate records of the care and treatment of patients and, in particular, on the 27th day of August, 2003, she recorded that one Andy Halpin had eaten well at dinner when in fact the said Andy Halpin was away from Craddock Nursing Home on that date and, on the 27th day of July, 2003, she failed to record that Maureen Finan had been unwell, was nauseated, had vomited twice and was unable to eat her dinner, and

(iii) on the 27th day of July, 2003 she altered Maureen Finan's nursing notes.

8. Having regard to the foregoing, it was agreed by the parties that the issues that the court is required to decide in this case are as follows;

(a) Does the evidence which was led at the hearing of these proceedings prove beyond reasonable doubt the several facts which the said Fitness to Practice Committee, in their report aforesaid, considered to be conduct on the part of Gloria Perez which fell short of the standard of conduct expected among nurses?

(b) If the answer to (a) aforesaid is in the affirmative, does that conduct amount to professional misconduct?

(c) Did the conduct aforesaid of which Gloria Perez admitted at the hearing of the inquiry before a Fitness to Practice Committee amount to professional misconduct? and

(d) If the answer to (b) and/or (c) is in the affirmative, what (if any) sanction should be imposed on Gloria Perez?

9. Gloria Perez gave evidence which I had no reason to doubt, that she qualified as a nurse in the Philippines in the year 1981 with what she described as a "Children's Degree in Nursing". She then attended a graduate course in critical care nursing and in intensive care nursing at the University of the Philippines and obtained those qualifications over a three-year period. In 1986, she applied for and obtained a nursing post in a hospital in Saudi Arabia where she worked in a medical and surgical ward for a period of five years. In 1991, she got married and resigned from nursing. She has one child now aged thirteen years. In the year 2000, she decided to return to nursing and, having undertaken a crash course in nursing which lasted three months, she applied for employment in Ireland. In that regard, Ms. Perez told me that it was necessary for her to return to nursing because her husband does not earn enough money to keep her dependent family which includes her deceased sister's son and daughter, her mother and her own son. Indeed, Ms. Perez maintained that she is now the breadwinner in the family. In this regard, it is, I think, of some significance that, when she gave evidence at the hearing of the enquiry aforesaid held by the Fitness to Practice Committee, Ms. Perez gave the committee to believe that she had children; rather than one child and that her reason for returning to nursing was that she loved to nurse and that she missed nursing and she did not suggest that she was under any economic pressure to return to nursing. Having applied for a nursing job in Ireland, it was indicated to Ms. Perez that there was a position available at the Craddock House Nursing Home and she had a telephone conversation with the proprietor of the nursing home, Mrs. Bríd Gallagher, in the course of which it was indicated to her by Mrs. Gallagher that she would be happy to employ her. Accordingly, Ms. Perez came to Ireland in the month of August, 2000 and straight away went to Craddock House where she spent a week during which, as she said "They orientated me in the structure in the nursing home", following which she went to the Mater Hospital, where she spent nine weeks undergoing a placement course in anticipation of taking up employment in the Craddock House Nursing Home. This placement course was essential to enable Ms. Perez to be registered on the register of nurses in this country. In that regard, I heard evidence which I accept, that such placement courses normally last six weeks but, in the case of Gloria Perez, it was extended for a period of three weeks for the reason, as I interpreted the evidence of Nurse Roisín Farrell who, at the material time, was the Clinical Nurse Manager at the Mater Hospital and the person responsible for ensuring that Ms. Perez completed that course in a satisfactory manner, that Gloria Perez's communication skills were not very good. In that regard, it was suggested on Ms. Perez's behalf that the reason that the placement course in the Mater Hospital was extended for three weeks was because Ms. Perez was unable to concentrate on what was required of her during that course because she was overly tired arising from the fact that, at weekends, while attending the placement course, she was also required to work at the Craddock House Nursing Home. In that regard, however, I was persuaded by the evidence of Mrs. Bríd Gallagher that, during that period, Ms. Perez only worked on two weekends at the Craddock House Nursing Home for a period of six hours on each of them and that she did so; not because she was required to do so by Mrs. Gallagher or, indeed, by anyone at the nursing home, but because she, herself, requested that she be allowed to work there during those weekends. Moreover, given that she only worked three days a week; albeit three long days, while attending the placement course, I do not accept that whatever work she did at the Craddock House Nursing Home during weekends could have made her too tired to attend properly to the placement course. If she was too tired, it is my view that it must have been for other reasons but I am persuaded by the evidence of Roisín Farrell that the extension of the placement course from six weeks to nine weeks was due to the fact that Gloria Perez's communication skills were not good and for no other reason. Following the completion of the placement course, Ms. Perez commenced to work at the Craddock House Nursing Home and that would have been in the month of November, 2002.

10. Insofar as Gloria Perez's conduct and competency as a nurse was concerned, apart from her own testimony, I heard evidence from five experienced State registered nurses and was furnished with a report; the contents of which were agreed by the parties, submitted by Anne-Marie Payne, the Acting Nurse Tutor attached to St. Mary's Hospital, Phoenix Park, Dublin. In addition, I was referred to a transcript of the testimony given at the hearing of the inquiry aforesaid held by the Fitness to Practice Committee.

11. The several nurses who gave evidence before me were;

(1) Mrs. Bríd Gallagher, one of the proprietors of the Craddock Nursing Home which was founded in the year 1998 and a Director of Nursing in the home. Mrs. Gallagher qualified as a nurse in the year 1981 and has been engaged in full time nursing since that time having worked in hospitals in Dublin, Sligo, London, Boston, Iraq and Saudi Arabia,

(2) Ms. Triona Ryan, who qualified as a nurse in the year 1977 and, apart from a break of ten years during which she was rearing her family, Ms. Ryan was engaged in full time nursing since that time and is currently employed at the Craddock Nursing Home. She joined it in the year 2000,

(3) Ms. Siobhan Tallon, who qualified as a nurse in the year 1999 and has been in full time employment as a nurse since that time. Ms. Tallon was one of the nurses involved in the orientation of Gloria Perez when she first came to the Craddock Nursing Home,

(4) Ms. Jan Reyes, who qualified as a nurse in the Philippines in the year 1998 and has been in full time employment as a nurse since that time. Ms. Reyes came to the Craddock House Nursing Home in the month of August, 2002, and,

(5) Ms. Roisin Farrell, who qualified as a nurse in the year 1993 and has been engaged in full time nursing since that time. Ms. Farrell was employed as the Ward Manager in the Mater Hospital, Dublin, during the months of September, October and November in the year 2002, being the time during which Gloria Perez had undertaken the placement course there which was necessary to secure her registration as a nurse prior to taking up employment with the Craddock Nursing Home and it was Ms. Farrell who was responsible for certifying Ms. Perez's performance assessment following completion of that course. In that regard, in a certificate dated 18th November, 2002, while acknowledging that she and Gloria Perez had identified areas in which Ms. Perez needed to improve, Ms. Farrell essentially certified that Ms. Perez demonstrated a level of quality of performance as a nurse which was acceptable. However, in the course of her evidence, Ms. Farrell conceded that, because of other duties which she had to perform, she had limited involvement in the personal assessment of Ms. Perez's performance as a nurse and, therefore, when completing the said certificate of 18th November, 2002, she relied on the views of others, who were involved with Ms. Perez's placement, rather than on her own judgment. In those circumstances, I am not inclined to attach too much weight to Ms. Farrell's certificate of 18th November, 2002.

12. Otherwise, I was satisfied that the nurses aforesaid who gave evidence before me were persons of standing in the nursing profession.

13. While, at the hearing before me, Gloria Perez confirmed the admissions which she had made to the said Fitness to Practice Committee, she took issue with virtually all the evidence led on behalf of An Bord Altranais which purported to support the findings of the said Fitness to Practice Committee that, when, between 16th December, 2002 and the end of August, 2003, she was a staff nurse employed at Craddock House Nursing Home and Care Centre, Craddockstown Road, Naas, Co. Kildare, her professional conduct fell seriously short of the standard of conduct expected among nurses in respect of

(i) information about patients communicated at hand over reports or otherwise,

(ii) aseptic techniques and hygiene, particularly in the context of dressings,

(iii) giving medication to a wrong resident on 14th April, 2003 and, when queried, denied that she had given medication to a wrong resident; claiming that she had poured the medication down the sink, before finally admitting that she had, in fact, given that medication to the wrong resident and

(iv) placing dirty swabs on a patients breakfast tray. In that regard, I regret that I have to say that Gloria Perez did not impress me as a witness.

14. Indeed, while I concede that, at times, like many of the other witnesses who gave evidence before me, I found it difficult to understand what she was saying to me, I did not think that she was a very truthful person nor did I consider that much reliance could be put on her evidence. In this regard, as I have already indicated, I think that she was less than candid with the Fitness to Practice Committee when she told them that she was the mother of children and that she resumed nursing in the year 2000 because she loved to nurse. Neither did I think that she was telling me the truth when she told me that, during the nine week period in the course of which she underwent a placement course at the Mater Hospital in anticipation of taking up employment in the Craddock House Nursing Home, she had worked every weekend at the nursing home and had done so at the request of the staff of the nursing home. As I have already indicated, I prefer Bríd Gallagher's evidence that she only worked on two weekends during that period and did so at her own request. I do not accept Gloria Perez's denial that she ever received any orientation at the Craddock House Nursing Home. Furthermore, I was totally unimpressed by her explanation of the events which occurred on 14th April, 2003, when it was alleged that she gave medication to a wrong resident at the nursing home and, indeed, I accept the evidence of Nurse Jan Reyes that Gloria Perez attempted to persuade her (Nurse Reyes) to cover up that incident and that, when she was questioned about it; firstly, by Nurse Triona Ryan and, latterly, by Nurse Bríd Gallagher, she was initially in denial although ultimately conceding her default. In this regard also, I note that, when explaining what happened, Gloria Perez gave different accounts to both Bríd Gallagher and Triona Ryan and I was particularly unimpressed by the fact that, in giving evidence before me, she said that she had given the drug intended for Eileen O'Reilly to a care assistant to give to Miss O'Reilly; a suggestion which she never made before the Fitness to Practice Committee. There were other aspects of Gloria Perez's evidence about which I had considerable reservations. However, as I am satisfied that, generally speaking, she was not a reliable witness, I do not think it necessary for the purpose of this judgment that I review all of those matters in detail.

15. While, as I have indicated, I did not consider that Gloria Perez was a reliable witness, I did not doubt the sworn testimony given by Nurses Bríd Gallagher, Triona Ryan, Siobhan Tallon and Jan Reyes. Apart from the fact that I cannot identify any good reason why I might doubt the testimony of any one of these ladies, each one of them impressed me as being an honest person and a reliable historian of the events which they described in the course of their evidence. Moreover, it was patently clear that no one of them took any pleasure in criticising the conduct of a professional colleague and this was particularly so in the case of Nurse Jan Reyes, who, of course, is a co-national of Gloria Perez.

16. Insofar as the specific findings of the Fitness to Practice Committee with regard to the professional conduct of Gloria Perez was concerned, I was persuaded beyond any doubt by the evidence of Nurses Gallagher, Tallon, Reyes and Ryan that, in the matter of communicating information about patients to her colleagues at the end of a tour of duty, or otherwise, and in the matter of aseptic techniques and hygiene; particularly in the context of dressings, Gloria Perez's conduct fell seriously short of the standard of conduct expected among nurses. In particular, although I am satisfied that her colleagues regularly impressed upon her the importance of giving accurate and complete information about how patients were faring or what instructions doctors had given with regard to their care and the importance of observing aseptic techniques; especially those related to dressing wounds, I was persuaded by the testimony of her colleagues that Ms. Perez frequently communicated imprecise and incomplete information with regard to the welfare of patients and that her aseptic techniques were extremely poor, in that, she regularly failed to wash her hands, or use, or change gloves in the course of dressing a wound in circumstances where it was a universal nursing practice that she should do so and this despite being constantly reminded to do so. Moreover, her dressing techniques were so poor that it frequently occurred that dressings applied by her fell off and had to be replaced at additional expense and, of course, adding to the workload of other staff.

17. In the light of the testimony of Nurses Ryan, Reyes and Gallagher I was again persuaded beyond any doubt, that, on the 14th day of April, 2003, Gloria Perez; not only gave medication to a wrong resident, namely; Ann Heatley but, initially tried to persuade Nurse Reyes not to tell anyone about her mistake and, latterly, denied having made the mistake to both Nurse Ryan and Nurse Gallagher before, ultimately, admitting her default. I am also persuaded beyond any doubt by the testimony of Nurse Gallagher that Gloria Perez was seen to place dirty swabs on a patient's breakfast tray. Accordingly, I have no doubt that the Fitness to Practice Committee were quite entitled, as they did, to conclude that, by giving medication to a wrong resident and placing dirty swabs on a patient's breakfast tray Gloria Perez's professional conduct fell seriously short of the standard of conduct expected among nurses.

18. Apart from the foregoing, the nursing staff at the Craddock House Nursing Home and Care Centre gave evidence which I accept and which pointed inexorably to the fact that, during the period when she was employed as a staff nurse at that nursing home, Gloria Perez was anything but a competent nurse; a view which Bríd Gallagher and Triona Ryan, in particular, expressed in no uncertain terms. She found it difficult to make herself understood by other members of the staff; a problem which, as I have already indicated, I myself had when she was in the witness box and it would appear that she did not readily understand many instructions that were given to her although she rarely admitted as much. In that regard, it is also relevant to note that, during the period when she was a staff nurse at the Craddock House Nursing Home, she was incapable of taking telephone calls; apparently, because she could not understand what was being said to her on the telephone and it was her invariable practice, when she had to answer the phone, to hand over the receiver to the person nearest to her. Moreover, in the course of her evidence, she conceded that while she was working in the nursing home, she undertook a test in English at University College Dublin which she failed. At no stage, while she was working at the Craddock House Nursing Home did the Director of Nursing in the home, Bríd Gallagher, consider that Gloria Perez was sufficiently trustworthy to be permitted to dispense drugs and, although she spent ten months in the nursing home, it would appear that there was many a long-term resident in respect of whom she could not put a name on their face. She did not seem to appreciate the risk involved in giving medication to a wrong patient and, in that regard, appeared to be more concerned about her own reputation than she was about the wellbeing of the patient. Accordingly, it would appear that she could not be trusted. That would seem to have been Bríd Gallagher's main concern about Gloria Perez's suitability for nursing. Ms. Gallagher accepted that all nurses, being human, could make mistakes but that it was totally unacceptable that they would not acknowledge a mistake; particularly, when a patient's welfare was at stake. Accordingly, as I have indicated, there was much criticism of Gloria Perez's competency as a nurse and, apart altogether from the evidence which I heard, it appeared from the transcript of the evidence which was given to the Fitness to Practice Committee that they heard sworn testimony from a Dr. Philip Ahearn, a general practitioner, who frequently attended the Craddock House Nursing Home, who expressed the view that Gloria Perez's competency as a nurse was below standard and that he felt it unsafe to give instructions to her and testimony from a Nurse Denise Canavan, who, at the material time, was also employed as a Staff Nurse at the nursing home, that she was of the view that Gloria Perez required supervision at all times.

19. Apart from denying the several allegations of incompetency levied against her by her colleagues on the staff of the Craddock Nursing Home, Gloria Perez proffered the explanation as to why her colleagues made what she alleges were false accusations against her; the reason being, she maintained, that, when she returned to the nursing home following the completion of the placement course which she underwent at the Mater Hospital, she was isolated and bullied by the staff in the nursing home. She said that that occurred because the staff in the nursing home resented the fact that she had complained that weekend work which she had undertaken at the Craddock House Nursing Home while attending the placement course at the Mater Hospital had made her too tired to attend properly to that course. Apart from the fact that, when they were giving their evidence, the nurses from the Craddock House Nursing Home not confronted with that suggestion, a number of them; in particular, Bríd Gallagher, Triona Ryan and Jan Reyes, gave evidence which was not challenged that Gloria Perez was made very welcome when she joined the nursing home. Moreover, Ms. Collette Mullen, a representative from the Irish Nurses' Organisation, who was consulted by Gloria Perez with regard to her threatened dismissal from her employment at the Craddock House Nursing Home, gave evidence that Gloria Perez specifically refused to permit her to lodge a complaint of bullying against her employer on behalf of Gloria Perez. In those circumstances, I do not accept that Gloria Perez was either isolated or bullied by the staff at the nursing home. Ms. Perez also complained that she was victimised in the sense that, while she was employed at the nursing home, she was required to do care assistant work, rather than nursing work, and that she found this demeaning. While, in the light of the evidence which I heard, I have no doubt but that she was, indeed, required to carry out duties which would be expected of a care assistant, she was treated no differently in that respect than were any of the other staff nurses at the nursing home, in that, from time to time, all of them were required to carry out duties which would be normally be those of a care assistant. Accordingly, I am not persuaded that Gloria Perez was victimised in that regard. I accept that she was subjected to a considerable amount of supervision when carrying out nursing duties but, in my view, that was reasonable and justified given the criticisms which I heard of her competency as a nurse. In this regard, it is, I think, significant that, in a report on her furnished by Ann-Marie Payne, acting Nurse Tutor at St. Mary's Hospital, Phoenix Park; a report which, apparently, was requisitioned by Ms. Perez's solicitors, Nurse Payne (inter alia) says two things about Ms. Perez which appears to support the views expressed by her colleagues at the Craddock House Nursing Home i.e. that her command of the English language was fair to poor at times and that her knowledge in nursing practices ranged from very knowledgeable to very poor in the areas concerning caring for older people.

20. It was also suggested on Gloria Perez's behalf that Bríd Gallagher contrived to find reasons to justify dismissing Gloria Perez from her employment because she was annoyed at the fact that Gloria Perez had complained to the Mater Hospital that she was unable to attend to her placement course because of overtiredness as a result of working in the nursing home at weekends while she was attending the placement course and because Gloria Perez had seen fit to consult the Irish Nurses' Organisation with regard to her employment. In other words, it was suggested that the justification for dismissing Gloria Perez from her employment were spurious. In my view, there was no foundation whatsoever for those suggestions. The evidence which I heard with regard to Gloria Perez's incompetency as a nurse was a compelling reason for her dismissal. I might add that neither did I consider that there was any reality to the suggestion on Gloria Perez's behalf that Bríd Gallagher had, unilaterally, attempted to alter her contract of employment.

21. In the light of the foregoing, I was persuaded by the sworn testimony of the several nurses who gave evidence before me that the conduct of Gloria Perez, when she was employed as a staff nurse at the Craddock House Nursing Home and Care Centre between the months of November, 2002 and August, 2003, not only fell far short of the standard of conduct expected among nurses but did not accord with the code of professional conduct for nurses laid down by An Bord Altranais, in that, I am satisfied that Gloria Perez was an incompetent nurse and did not take appropriate measures to develop and maintain the competence necessary for professional practice. In that regard, I am satisfied that Gloria Perez's conduct and her failure to observe the said code of professional conduct for nurses amounted to professional misconduct and I confirm the decision of the said Fitness to Practice Committee that her name be erased from the Register of Nurses pursuant to the provisions of s. 39(1) of the Nurses Act 1985.