

**UNIVERSITY OF TORONTO  
GOVERNING COUNCIL**

**REPORT NUMBER 234 OF THE ACADEMIC APPEALS COMMITTEE**

**November 16, 1998**

To the Academic Board,  
University of Toronto.

Your Committee reports that it held a hearing on Thursday, September 24, 1998 and Monday, November 16, 1998, at which the following were present:

Ms Bonnie Croll, Acting Chair  
Professor Ethel Auster  
Mr. Christopher Brown  
Professor Marvin Gold  
Professor Emmet Robbins

Ms Susan Girard, Acting Secretary, Academic Appeals Committee  
Ms Patti Seaman, Governing Council Secretariat\*

In Attendance:

Ms N.M., the Appellant  
Ms Deirdre McKenna, Counsel for the Appellant  
Ms Daphne Simon, Review Counsel, Downtown Legal Services  
Mr. M.\*

Ms Sari Springer, Counsel for the Faculty of Nursing  
Ms Jan Angus, Tutor, Faculty of Nursing\*  
Professor Gail Donner, Associate Dean, Education, Faculty of Nursing\*  
Professor Dorothy Pringle, Dean, Faculty of Nursing  
Professor Barbara Johnson, Program Director, 4th year Program,  
Faculty of Nursing\*

\* in attendance only at November 16, 1998 hearing

This Committee considered an appeal by Ms N.M., (the “Appellant”) of the decision of the Academic Appeals Committee of the Faculty of Nursing, University of Toronto (“Nursing”) dated February 13, 1998. The Academic Appeals Committee upheld the decision of the Committee on Standing at Nursing dated July 30, 1997 that the Appellant failed the course NUR200Y.

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The Appellant enrolled in the four-year Bachelor of Science Nursing program in 1995 as a first-year student. After successfully completing year 1, the Appellant enrolled in year 2 in September 1996. NUR200Y Nursing Science II is a second-year course which is a required course for proceeding into the third year of the program. NUR200Y is a full-year course that has the weight of three full courses. It is comprised of classes, laboratory sessions and clinical practice. The clinical portion of the course is graded on a Pass/Fail basis. The published course outline for NUR200Y states as follows: *Students MUST pass Clinical practice in order to BE ELIGIBLE to pass NUR200Y.* The Appellant failed the clinical practice component of NUR200Y, and it is this failure that is the subject of this appeal.

It is the position of Nursing that the Appellant's performance in the clinical portion of NUR200Y throughout the second term of the 1996-97 year was not satisfactory. Throughout this period, the Appellant's performance was documented by Ms Jan Angus, the tutor in NUR200Y. Ms Angus is a clinical tutor at Nursing. She has been on staff at Nursing since 1989. Her responsibilities as tutor in NUR200Y included observing the students and consulting with staff on the hospital floor to ensure that each student had mastered the learning and the skills set out in the course description for NUR200Y. A copy of the notes made by Ms Angus from January 30, 1997 until May 22, 1997 was made available to this Committee. As well, Ms Angus presented *viva voce* evidence to the Committee. In both the written material, and in her direct examination and cross-examination before this Committee, Ms Angus displayed a thorough and conscientious approach to the clinical evaluation. Areas of concern regarding the Appellant's performance during the period from January 30, 1997 to March 5, 1997 were noted in the mid-term evaluation presented by Ms Angus to the Appellant on March 5, 1997. The Appellant signed this evaluation. Ms Angus informed this Committee that at the time the mid-term evaluation was provided to the Appellant, the Appellant was also advised by Ms Angus that the problems noted could lead to failure of the clinical component of NUR200Y. Also on March 5, the Appellant entered into a learning contract with Nursing. This contract provided, among other things, that the Appellant would *demonstrate satisfactory or better performance in all of the NUR200Y Pass/Fail Guidelines for Clinical Work by the end of the 1997 Spring term.* The learning contract stressed improvement in the areas of Professional Responsibility and Accountability and Safe Care practices. This Committee is advised that written mid-term evaluations and learning contracts are not the usual practice at Nursing, but were provided when there was some concern with a student's clinical performance. An interim evaluation was provided to the Appellant by Ms Angus at the end of April 1997. The interim evaluation noted improvement in some areas and also noted continuing problems specifically in the areas of safe care practices and caring characteristics.

As the Appellant had been absent due to illness from clinical days, the Appellant was required to make up ten days of clinical work, which the Appellant did by working five eight-hour days (May 15, 16, 20, 22 and 23) at Sunnybrook Health Sciences Centre (Sunnybrook) in May, 1997. The Appellant's previous clinical rotation had also been at Sunnybrook. During this make-up period, the Appellant was supervised daily by a preceptor, and Ms Angus visited the Appellant at Sunnybrook on three of the five days. In addition, Ms Angus and the preceptor had two detailed conversations during this period, at

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which time the preceptor expressed concerns about the Appellant's performance. These concerns were of the same nature that Ms Angus had identified during the regular term. Taking into account the concerns of the preceptor and the inconsistency and problems noted by Ms Angus throughout the entire second term, Ms Angus determined that the Appellant should fail NUR200Y.

This Committee was advised that following Faculty procedure, prior to Ms Angus advising the Appellant of the failure, Ms Angus met with Professor Hattie Shea, the Undergraduate Coordinator at Nursing to discuss the Appellant's situation. Ms Angus' notes indicate that Professor Shea would support a failing grade, in view of the concerns expressed about the Appellant's performance. However, in view of the seriousness of the situation, Ms Angus was instructed by Professor Shea to obtain a second opinion. Accordingly, Ms Angus requested Professor Elizabeth Wonnacutt to review the Appellant's case. After reviewing Ms Angus' notes and other relevant material, Professor Wonnacutt confirmed the decision to fail the Appellant in NUR200Y. The decision to fail the Appellant was conveyed to the Appellant at a meeting on May 29, 1997.

The Appellant petitioned the Committee on Standing at Nursing to reconsider the failing grade the Appellant received in NUR200Y. As part of this petition, the Appellant submitted a written evaluation to the Committee on Standing from the preceptor who supervised the Appellant during the five-day make-up period at Sunnybrook. It should be noted that in this written report from the preceptor, the Appellant's performance was marked satisfactory in all the categories and the preceptor attempted to clarify what the preceptor described as an earlier misunderstanding relating to safe care practices. This written report of the preceptor had not been available when the decision was made to fail the Appellant. Accordingly, the Committee on Standing instructed Ms Angus to re-examine her original decision. Ms Angus did so and confirmed her original decision. As part of the review undertaken by the Committee on Standing, the Committee also requested Professor Judy Watt-Watson of Nursing to review the facts and to provide the Committee on Standing with an independent assessment of the Appellant's performance. Professor Watt-Watson confirmed the failing grade issued to the Appellant.

The Appellant suggests that the decision to fail the Appellant was based entirely and incorrectly on the five-day make-up period in May. It is the view of this Committee that this is not the case. The notes Ms Angus made during the second term of the 1996-97 year indicate that there were serious concerns about the Appellant's clinical performance throughout the entire term. It is acknowledged that the Appellant did make some improvement during the term, but it was of grave concern to Ms Angus and the other members of the Nursing faculty who had been consulted, that problems which had been brought to the Appellant's attention at an earlier stage had not been rectified. Rather the problems had continued or re-appeared. The mid-term evaluation of March 5, 1997 addressed, among other things, concerns regarding the Appellant's inability to focus, and safe care practices. The learning contract of March 5, 1997 set out learning strategies to assist the Appellant. Although some improvement in the Appellant's performance was noted in the interim evaluation dated April 30, 1997, concerns under the headings safe

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care practice and caring characteristics were again noted. Specifically, the Appellant's need to consult texts and act independently in preparing for patient care and her continued tendency to make inappropriate comments were noted. These problems were again identified during the make-up period, as evidenced by Ms Angus' notes made on May 20, 1997 and May 22, 1997, after conversations with the preceptor. This Committee accepts the position of Nursing that the Appellant's difficulties with focusing and organization, decision-making, inappropriate comments and safe care practices were brought to her attention by Ms Angus at different times in the term, through conversations and through the written mid-term evaluation, the learning contract and the interim evaluation. These concerns were not resolved satisfactorily and continued during the make-up period.

This Committee does not accept the Appellant's position that the evaluation of Professor Watt-Watson should be disregarded. Professor Watt-Watson is an experienced nurse and educator. This Committee is satisfied that Professor Watt-Watson was well qualified to provide an independent evaluation based on the material provided to her. It was the position of Professor Watt-Watson and those other members of Nursing who reviewed this case, namely Professor Shea and Professor Wonnacutt, that when the unsatisfactory performance of the Appellant in the different elements of the clinical portion of NUR200Y is considered as a whole, it necessitates failure of the entire clinical portion.

This Committee also notes some discrepancies between Ms Angus' recollection and notes of her conversations with the preceptor during the make-up period, and the written report provided by the preceptor in July 1997. This Committee accepts that the function of the preceptor was to supervise the Appellant's activities on a daily basis during the make-up period and to report the preceptor's observations to the tutor, Ms Angus. Prior to the preceptor's written report dated July 1, 1997, the preceptor's oral reports to Ms Angus, as reflected in Ms Angus' notes, were consistent with the finding that the Appellant had not satisfactorily met the clinical guidelines for NUR200Y. It is the view of this Committee that the written report of the preceptor must be largely discounted in light of the ongoing evaluation by Ms Angus and the preceptor's own earlier comments made at the time of the Appellant's placement at Sunnybrook. The written report of the preceptor was provided to Nursing at the request of the Appellant, after the Appellant had been informed that the Appellant had failed NUR200Y. It has been suggested that the preceptor modified her comments regarding the Appellant's performance out of some sympathy for the Appellant's position. Whatever the reason for the preceptor's change of opinion regarding the Appellant, the preceptor is not the one charged with the formal evaluation of students. Rather, it is the Committee's view that the determination as to whether a student is successful in a clinical course is best made by the one who is charged with that responsibility, who is aware of the relevant criteria and whether or not they have been met. This is not said to diminish the important role of the preceptor in a clinical course. It is, however, the view of this Committee that the ultimate decision as to whether or not a student has satisfied the clinical criteria is to be made by the tutor, in this case, Ms Angus, after considering and assessing all information.

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This Committee recognizes the seriousness of a failure in the clinical component of NUR200Y. Students who do not satisfactorily meet the clinical practice guidelines do not pass clinical practice, and students must pass clinical practice in order to be eligible to pass NUR200Y. A failure in NUR200Y meant that the Appellant was unable to proceed to year 3 of the 4-year program. Yet it is because of the seriousness of the clinical portion of NUR200Y that this Committee denies the Appellant's appeal. Representatives of Nursing informed this Committee that it is highly unusual for a student to fail any course, including NUR200Y. Steps were taken, through the written mid-term evaluation and the learning contract, to help the Appellant meet the clinical criteria. The make-up period also was an opportunity for the Appellant to demonstrate improvement. Yet, after reviewing the Appellant's entire performance in the second term of the 1996-97 year, including the make-up period, the decision was made that, despite some improvement in some areas, on the whole, the Appellant had not satisfied the clinical requirements. These requirements are critical to safe and proper nursing care. The tutor, Ms Angus, and others at Nursing who reviewed this case were not satisfied that the Appellant had demonstrated the bundle of skills necessary to proceed. This Committee has been given no reason to question their assessments. For the record, it should be noted that the decision of this Committee was not unanimous.

Susan Girard  
Acting Secretary

Bonnie Croll  
Acting Chairman

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